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DEPARTMENT OF HOMELAND SECURITY

Agreement Between the Government of the United States of America and the Government of the Republic of Honduras for Cooperation in the Examination of Protection Claims

AGENCY: Department of Homeland Security, Office of Strategy, Policy, and Plans

ACTION: Notice of agreement.

SUMMARY: The Department of Homeland Security is publishing the Agreement Between the Government of the United States of America and the Government of the Republic of Honduras for Cooperation in the Examination of Protection Claims. The text of the Agreement is set out below.

Valerie Boyd,

Assistant Secretary for International Affairs,

Office of Strategy, Policy, and Plans,

U.S. Department of Homeland Security.

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND

THE GOVERNMENT OF THE REPUBLIC OF HONDURAS

FOR COOPERATION IN THE EXAMINATION OF PROTECTION CLAIMS

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF HONDURAS (hereinafter referred to individually as "Party," or collectively as "the Parties"),

CONSIDERING that Honduras is a party to the principal international human rights instruments and in particular to the 1951 Convention relating to the Status of Refugees, done at Geneva, July 28, 1951 (the"1951 Convention") and the Protocol relating to the Status of Refugees, done at New York, January 31, 1967 (the"1967 Protocol"), that the United States is a party to the 1967 Protocol, and other relevant international instruments to which Honduras is a party, and reaffirming the Parties' obligations to provide protection for eligible refugees who are physically present in their respective territories in accordance with their respective obligations under those instruments, subject to the Parties' respective reservations, understandings, and declarations;

ACKNOWLEDGING in particular the obligations of the Parties in honoring the principle of non-refoulement as set forth in the 1951 Convention and the 1967 Protocol, as well as the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10, 1984 (the "Convention Against Torture"), subject to the Parties' respective reservations, understandings, and declarations and reaffirming their respective obligations to promote and protect human rights and fundamental freedoms consistent with their respective international obligations;

RECOGNIZING and respecting the obligations of each Party under its domestic laws, policies, instructions, and agreements;

EMPHASIZING that the United States and Honduras offer systems of refugee protection that are consistent with their respective obligations under the 1951 Convention or the 1967 Protocol, and committed to the notion that cooperation and burden-sharing with respect to refugee status claimants can be enhanced;

DESIRING to uphold asylum or equivalent temporary protection as a critical instrument of the international protection of refugees, while simultaneously desiring to prevent fraud in the protection system, which undermines its legitimate purpose, and resolved to strengthen the integrity of that institution and the public support on which it depends;

CONVINCED that agreements among states may enhance the international protection of refugees by promoting the orderly handling of asylum applications by the responsible party and the principle of burden-sharing; and

AWARE that such sharing of responsibility must ensure in practice that persons in need of international protection are identified and that breaches of the fundamental principle of non- refoulement are avoided, and therefore determined to safeguard for each protection claimant eligible to pursue a protection claim who comes within their jurisdiction, access to a full and fair protection determination procedure;

AGREE as follows:

ARTICLE 1

For the purposes of this Agreement:

1. "Protection Claim" means a request from a person to the government of a Party for protection consistent with their respective obligations under the 1951 Convention or the 1967 Protocol, or the Convention Against Torture, in accordance with the Parties' respective laws and policies implementing those obligations, or any other equivalent temporary protection available under Honduran migration law.

2. "Protection Claimant" means any person who makes a Protection Claim in the territory of one of the Parties with respect to each Party's obligations.

3. "Protection Determination System" means the sum of laws and administrative and judicial practices employed by each Party's national government for the purpose of adjudicating Protection Claims.

4. Unaccompanied Minor" means a Protection Claimant who has not yet reached his or her eighteenth birthday and does not have a parent or legal guardian present and available to provide care and custody in the country where the Unaccompanied Minor is encountered, either in the United States or Honduras.

ARTICLE 2

This Agreement does not apply to Protection Claimants who are citizens or nationals of Honduras; or who, not having a country of nationality, are habitual residents of Honduras.

ARTICLE 3

1. In order to ensure that Protection Claimants have access to a Protection Determination System, Honduras shall not return or remove a Protection Claimant referred by the United States to another country until an administratively final adjudication of the person's Protection Claim has been made. Honduras shall have a procedure to resolve, consistent with its domestic law and international obligations, potential abandonment of claims by individuals transferred under this Agreement.

2. Honduras shall not be required to accept the transfer of a Protection Claimant until a final determination with respect to Article 4, paragraph 1 is made by the United States.

3. With the exemption of the persons described in paragraphs 1 and 2 of Article 4, Honduras shall examine, in accordance with its Protection Determination System, to determine the Protection Claim of any person who makes such claims after arriving at a port of entry, or crossing a border between ports of entry of the United States on or after the effective date of this Agreement. The Parties shall respect each other's decision as relates to Protection Determinations made under their respective national laws.

4. The United States shall apply this Agreement with respect to Unaccompanied Minors consistent with its national law.

5. During the transfer process as determined in the Implementation Plan, individuals subject to this Agreement will be the responsibility of the United States until the transfer process is complete.

ARTICLE 4

1. Responsibility for determining the Protection Claim shall rest with the United States, where the United States determines that the person:

a. Is an Unaccompanied Minor; or

b. Arrived in the territory of the United States:

i. With a validly issued visa or other valid admission document, other than for transit, issued by the United States; or
ii. Not being required to obtain a visa by the United States.

2. Honduras shall not dispute any decision of the United States that an individual qualifies for an exception under Articles 4 and 5 of this Agreement.

3. The Parties will have procedures in place to ensure that transfers of Protection Claimants to Honduras are consistent with the Party's respective obligations and national laws.

ARTICLE 5

Notwithstanding any provision of this Agreement, either Party may, at its own discretion, examine any Protection Claim made to that Party where it determines that it is in its public interest to do so.

ARTICLE 6

The Parties may:

1. Exchange such information as may be necessary for the effective implementation of this Agreement subject to national laws and regulations. That information shall not be disclosed by the Party of the receiving country except in accordance with its national laws and regulations. The Parties shall seek to ensure that information is not exchanged or disclosed in such a way as to place Protection Claimants or their families' life, security, and integrity at risk in their countries of origin.

2. Exchange on a regular basis information on the laws, regulations, and practices relating to their respective Protection Determination System.

ARTICLE 7

1. The Parties shall develop standard operating procedures to assist with the implementation of this Agreement. These procedures shall include provisions for notification, to Honduras, in advance of the transfer of any Protection Claimant pursuant to this Agreement. In the Implementation Plan, the Parties shall work to identify appropriate individuals to be transferred pursuant to this Agreement.

2. In case of conflict or controversy derived from the application of this Agreement, the Parties are committed to resolving such matters through dialog or diplomatic channels.

3. The United States intends to cooperate with Honduras in order to strengthen the Republic of Honduras's institutional capacities.

4. The Parties agree to review this Agreement and its implementation. The first review shall take place not later than 3 months from the date of entry into force of this Agreement and shall be jointly conducted by representatives of each Party. The Parties may invite other appropriate organizations with expertise, as agreed upon by the Parties, to participate in this initial review. The Parties may cooperate with such organizations in the monitoring of this Agreement, provided that those organizations agree to provide such consultation services.

5. The Parties intend to complete an Initial Joint Implementation Plan that seeks to address, among other things: (a) procedures necessary to effectuate the transfer of individuals under this Agreement; (b) the volume or number of individuals to be transferred; and (c) institutional capacity requirements.

ARTICLE 8

1. This Agreement shall enter into force upon exchange of notes by both Parties indicating that each has completed the necessary domestic legal procedures for bringing the Agreement into force and the Initial Joint Implementation plan has been established.. This Agreement shall automatically renew after each one-year period for an additional year, subject to notification within 30 days of expiration by either Party of its intention not to renew.

2. Either Party may terminate this Agreement upon six months' written notice to the other Party.

3. Either Party may, immediately upon written notice to the other Party, suspend for an initial period of up to three months' application of this Agreement. Such suspension may be renewed for additional periods of up to three months upon written notice to the other Party. Either Party may, with the written agreement of the other Party, suspend any part of this Agreement.

4. The Parties may agree on any modification of or addition to this Agreement in writing. When so agreed, and approved in accordance with the applicable legal procedures of each Party, a modification or addition shall constitute an integral part of this Agreement.

5. Nothing in this Agreement shall be constructed in such a way as to obligate the Parties to disburse or obligate funds. The implementation of this Agreement shall be subject to the availability of funds and technical capacities of each Party.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective governments, have signed this Agreement.

DONE at New York, New York, this 25 day of September 2019, in duplicate in the English and Spanish languages, each text being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Kevin K. McAleenan
Acting Secretary
U.S. Department of Homeland Security

FOR THE GOVERNMENT OF THE REPUBLIC OF HONDURAS:

Lisandro Rosales Banegas
Minister
Ministry of Foreign Relations

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