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Sri Lanka emphasizes commitment to address the issue of 'ethical labour recruitment practices' during its tenure as Colombo Process Chair

Sri Lanka's Permanent Representative to the UN in Geneva Ravinatha Aryasinha, has said Sri Lanka which took over the chair of the Colombo Process (CP) one year ago was of the view that if it were to make a difference and ensure that some real benefits would accrue to the people of the member countries, it was important that they address the tough issues, including 'Ethical Labour Recruitment Practices'. He noted that in ongoing deliberations the CP is seeking to harmonize existing national regulatory frameworks, promote Standard Employment Contracts (including addressing issue of contract substitution and create a registration mechanism for contracts), consider common minimum wage levels, and conditions that promote health and well-being and insurance protection, and to develop a common position on ethical recruitment practices.

Ambassador Aryasinha made these observations and reviewed the progress made by the CP under Sri Lanka's leadership, when he addressed an Expert Consultation on Recruitment Practices and their Impact on Human Rights of Migrants, held at the Palais des Nations in Geneva on 31 October 2014. The consultation was convened by Mr. Francois Crepeau, Special Rapporteur on the Human Rights of Migrants and was attended by diplomats, academics, representatives of the ILO and IOM, Recruitment specialists, as well as NGOs involved in the field.

He said the challenge before us remains to address some of the specific problems presented by unethical recruitment, which range from high recruitment fees, and deceit about the terms and conditions of employment, right through to forced labour. He reiterated the timely need for international commitment/cooperation to the protection of human rights of migrants, regardless of their migration status and working towards an effective and inclusive agenda that integrates development and human rights aspects.

(Full statement is attached)

Permanent Mission of Sri Lanka
Geneva

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**Address by H.E. Ravinatha Aryasinha,
Permanent Representative/Ambassador of Sri Lanka to the UN
at the Expert Consultation on Recruitment Practices and
Their Impact on Human Rights of Migrants
31 October 2014**

Special Rapporteur on the Human Rights of Migrants & distinguish guests,

I am pleased to be participating in this consultation on recruitment practices and their impact on the human rights of migrants organized by the Special Rapporteur on the Human Rights of Migrants and thank you for inviting me to be here to share the experience of the Colombo Process countries presently led by Sri Lanka in furthering these objectives.

Considering that in **Sri Lanka**, over 1.8 million people or 9% of the population reside and work abroad, the issue of recruitment of migrant workers is of particular importance to my country. The Ministry of Foreign Employment Promotion and Welfare oversees the Sri Lanka Bureau of Foreign Employment, which has established appropriate measures for the protection of migrant workers, including the regulation of recruitment agencies. It is noteworthy that Sri Lanka was one of the first countries to ratify the “International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families”, which entered into force in 2003. These and other protection measures are well-established and are crucial to enhancing the protection of Sri Lanka workers in Sri Lanka, which have grown leaps and bounce over the years.

The **Colombo Process** is a Regional Consultative Process on the management of overseas employment and contractual labour for countries of origins in Asia. It seeks to provide member states with an environment to engage in dialogue, exchange of views and cooperate on issues related to contractual labour migration. As Asian overseas worker populations grow in numbers and diversify in terms of destination and source countries, their impact is increasingly felt regionally and internationally. Overall numbers of Asian overseas workers are likely to increase due to declining working populations in many industrialized economies, combined with continued need for skilled / low-skilled workers.

In response to calls from several Asian labour sending countries, a Ministerial Consultation for Asian Labour sending countries was held in 2003 in Colombo, Sri Lanka. Since the initial Ministerial meeting in Colombo, the member states of what came to be described as the "Colombo Process" comprised of 11 countries - Afghanistan, Bangladesh, China, India, Indonesia, Nepal, Pakistan, Philippines, Sri Lanka, Thailand and Vietnam. They have met at Ministerial level in Manila- Philippines (2004), Bali - Indonesia (2005) and Dhaka - Bangladesh (2011), to review and monitor the implementation of recommendations proposed and identify areas for future action. The Geneva headquartered International Organization for Migration (IOM) serves as the secretariat for the Colombo Process.

The Colombo Process Member States consider human rights of migration population are universal, indivisible, interdependent and interrelated, and must be treated in a fair and equitable manner, without the privileging of one set of rights over another. A human rights approach in migration will bring forward the policy dialogue that migration is not merely a

political phenomenon but also a fundamentally human process, and by mainstreaming of human rights in migration would thereby contribute to strengthen mechanisms of addressing the root causes of unsafe migration.

During the CP's last Ministerial Meeting held in Bangladesh in April 2011, the following recommendations were proposed with a view to promoting the human rights of the migrants from the CP countries;

1. To ensure the promotion and protection of the rights of all migrants and their families, including their social and economic rights, as well as improving the welfare, dignity and well-being of all migrant workers, especially women;
2. To develop employment and labour market policies and formulate rules, regulations and procedures that are conducive to the pursuit of legal, humane and orderly labour migration;
3. To eliminate all forms of occupational and socio-cultural discriminations against migrant workers.
4. To promote Decent Work for migrant workers, including in low-skill and low-wage sectors, and to design employment contracts based on existing good practice models;
5. To develop and streamline policy, legal and institutional mechanisms to eliminate unethical practices concerning migrant workers including deduction / non-payment in violation of contractual provisions, rationalize migration costs, promote transparency and openness in recruitment processes, strengthen monitoring and supervision of recruitment practices, and prevent slippage of regular migrant workers into any form of irregularities;
6. To effectively address the specific needs and concerns of vulnerable groups of migrant workers, especially women, domestic workers, low-skilled and low-wage workers;
7. To promote rest and recreation facilities for migrant workers and their families, increase opportunities for family reunion, and facilitate their access to basic services, particularly education;
8. To promote the implementation of migrant-inclusive health policies to ensure equitable access to health care and services as well as occupational safety and health for migrant workers

Mr. Chairman,

Sri Lanka which assumed the Chair of the Colombo Process in October 2013 believes that the whole is greater than the sum of its parts and that the collective voice of the 11 countries together will be stronger than any individual voice. We are conscious that we are competitors on the one hand for markets for our respective expatriate work force, but at the same time have tried to move beyond and work collectively to ensure healthy practices relating to labour migration from which we all stand to benefit.

Over the past year Sri Lanka has ensured that the Colombo Process is not only a forum for members to share experiences and best practices and coordinate issues of common interest on

labour migration, but to also collectively enhance dialogue with countries and regions of destination with regard to the protection of migrant workers. To this end, we have sought to engage with vigour and credibility with countries of labour destination through the Abu Dhabi Dialogue (ADD) and other international processes including the Global Forum on Migration and Development (GFMD). We have also sought to pursue the interests of Colombo Process countries in ensuring that due recognition is given to migration as one of the priority areas of the post-2015 development agenda. Additionally, with a view to ensuring the long term sustenance of the Colombo Process, we are presently deliberating on modalities to establish a self-funding mechanism.

Shortly after Sri Lanka assumed leadership of the Colombo Process, on 06 January 2014 in his capacity as Chair-in-Office of the Colombo Process, Minister of Foreign Employment Promotion and Welfare of Sri Lanka Hon. Dilan Perera met Secretary for Labour and Welfare of Philippines and ADD chair Hon. Rosalinda Dimapilis-Baldoz, in Manila, Philippines. Among the areas identified for cooperation as issues in the ADD which have synergy with the CP were pre-departure orientation, qualification recognition process, comprehensive information orientation programmes and recruitment standards.

The Strategic Vision/Road map for Sri Lanka's Chairmanship developed by the Geneva based Permanent Representatives and experts of the Colombo Process countries seeks to strengthen engagement with countries of destination under the overall theme "*International Labour Migration for Prosperity: Adding Value by Working Together*". The five thematic areas of our strategic vision are;

- i) Review the Qualification Recognition Processes including transnational accreditation and monitoring
- ii) Promote Cheaper, Faster & Safer Transfer of Remittances
- iii) Ethical Labour Recruitment Practices
- iv) Effective Pre-departure Orientation & Empowerment
- v) Develop a database on the economic trends in the destination countries

Under the theme '**Ethical Labour Recruitment Practices**' we have sought to;

- a) Harmonize existing national regulatory frameworks
- b) Promote Standard Employment Contracts (address issue of contract substitution and create a registration mechanism for contracts)
- c) Consider common minimum wage levels, and conditions that promote health and well-being and insurance protection.
- d) Develop a common position on ethical recruitment practices.

The first Senior Officials Meeting (SOM) held on 6-7 May 2014 in Colombo focused on two thematic areas, which are to promote Cheaper, Faster & Safer Transfer of Remittances and Ethical Labour Recruitment Practices. The comprehensive Concluding Statement adopted in Colombo on 7 May 2014 refers to the tangible action agreed upon by the 11 CP countries on issues pertaining to key labour migration principles, including the promotion of cheaper, faster and safer transfer of remittances, ethical labour recruitment, as well as cooperation and dialogue with the ADD. Under the thematic area of Ethical Labor Recruitment Practices, the Colombo Process member States

have recognized the importance of CP States promoting standard employment contracts that contain basic provisions to protect migrant workers. This includes being covered by social insurance, particularly in the area of employment injury, and also providing migrant workers with access to basic social security guarantees.

The recently concluded Second Senior Officials Meeting (SOM) in Colombo on 14 October 2014 also included a session dedicated to further discuss the problems arising from bad recruitment practices and the effects these have on the human rights of migrants. It was noted that in the Colombo Process region the recruitment industry has become an extremely profitable business for various brokers, sub-agents and private recruitment agencies. The challenges faced globally by governments of origin and destination in regulating the international recruitment business and monitoring their conduct are immense, given that intermediaries range from the village headman to multinational private recruitment agencies. It was also noted that the jurisdictional gaps that exist between the regulatory systems of origin and destination countries means that some of the worst recruiters are left unchecked and unpunished for what may amount to trafficking and/or forced labour of women and men across borders. The findings of an important piece of research commissioned by IOM under a regional Colombo Process Project which detailed these challenges in the Colombo Process countries, was also presented during the Senior Officials Meeting.

The challenge before us remains to address some of the specific problems presented by unethical recruitment, which range from high recruitment fees, and deceit about the terms and conditions of employment, right through to forced labour. We reiterate the timely need of international commitment/cooperation to the protection of human rights of migrants, regardless of their migration status and working towards an effective and inclusive agenda that integrates development and human rights aspects.

When Sri Lanka took over the chair one year ago the conventional wisdom was that many of these issues that we have sought to grapple with within the Geneva and Colombo based deliberations of the Colombo Process were beyond the capacity of the group, and that we would be wasting our time trying doing so. However, while having no illusion of the challenges that persist, Sri Lanka was of the view that if we were to make a difference and ensure that some real benefits would accrue to the people of member countries, it was important that we seek to address the tough issues. One year later, having closely followed the discussion, I must say that Sri Lanka has had complete support from the entire membership of the Colombo Process in this quest, and being competitors for the same markets or other national interests have not stood in our way. Translating the this collective voice of the Colombo Process countries into concrete cooperation remains our challenge.

I believe that with the help of the practitioners from all sides - whether it is labour receiving countries, the international agencies involved, the labour unions, other NGOs involved in the process and of course the Special Rapporteur and his staff who are trying to integrate these activities within the broader framework concerning the protection of human rights of migrants, we could together succeed in minimizing the risks for migrant workers and also that their families do not have to suffer pain due to the malpractices of the recruitment agencies.

I thank you.