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other International Organizations in Geneva**

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Agenda Item 3
Interactive Dialogue with the Special Rapporteur
on the Human Rights of Migrants

**Special Rapporteur's Report on his Visit to Sri Lanka,
from 19-26 May, 2014**

Statement as Country Concerned

by
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&
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(Geneva, 15 June 2015)

Mr. President,

Thank you for this opportunity to share our views on the report (A/HRC/29/36/Add.1), presented to this Council by Mr. François Crépeau, the Special Rapporteur on the human rights of migrants, pursuant to his visit to Sri Lanka, from 19 to 26 May 2014.

We thank Mr. Crépeau for accepting the invitation extended to him by the Government of Sri Lanka and undertaking a visit to my country.

Mr. Crépeau's contributions during the visit, especially in sharing his views and experiences on 'recruitment practices', at a workshop organized by the Ministry of Foreign Employment Promotion and Welfare, during the visit, with Government officials and recruitment agency representatives is appreciated.

As acknowledged by the Special Rapporteur, he was able to have access to a variety of interlocutors including civil society organizations, families of migrant workers and returned migrants, during his visit. The Government of Sri Lanka extended full cooperation to the Special Rapporteur "prior to, throughout and after the visit", demonstrating commitment to engage constructively and meaningfully with the Special Rapporteur.

Mr. President,

As you are aware, Sri Lanka is predominantly a migrant sending state. The number of migrants to Sri Lanka is negligible. Nearly 10% of Sri Lanka's population are overseas as registered migrant workers. In this context, a visit by the Special Rapporteur on Migrants was important to focus greater attention on the human rights of Sri Lankan migrant workers.

The report submitted by the Special Rapporteur will be useful and will facilitate the government's efforts in promoting and protecting the rights of Sri Lankan migrant workers.

Mr. President,

Sri Lanka provided its comments to the 'advanced unedited version', on 10 October 2014. We appreciate that our comments submitted on 8th June 2015 as an addendum to the Report have been circulated.

Sri Lanka places migration high in its national development policy. An estimated 1.8 million Sri Lankans reside and work abroad. This is equal to 20% of the

country's total economically active population and approximately 8.9% of the total population. An estimated 35.5% of economically active population of the country are women and 51.6% of the total population are women.

As to whether Sri Lankan women migrant workers going overseas employment is economically or socially beneficial has been debated extensively in Sri Lanka. Due to the social costs involved, especially to children of these female migrant workers, currently, Sri Lanka experiences, an increase in departure of male migrant workers (21.45% in 2013) and a decrease in departure of female migrant workers (by 14.64 in 2013). It has also been found that departure of housemaids (unskilled) has also decreased (by 18.55% in 2013). A majority of migrant workers have departed through licensed migrant agencies (61.6% in 2013) and this practice continues.

Mr. President,

Sri Lanka was among the first countries to ratify the "International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families". The ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children was completed on 15 May 2015. Sri Lanka signed the International Convention for the Rights of Persons with Disabilities (CRPD) in March 2007. Following the election of the new President, Mr. Maithripala Sirisena on 8th January 2015 and the formation of the new Government, a consultation process has been initiated, to take steps towards early ratification of the Convention.

Mr. President,

The institutional framework of labour migration management in Sri Lanka is steered by a dedicated Ministry of Foreign Employment Promotion and Welfare, which is headed by a Cabinet Minister. A consultation process is under way with a view to enact a 'Sri Lanka Employment Migration Act'.

The Nationwide Network of the Migrant Community: "*Rataviruwo*" Organization has been playing a key role in supporting the sustainable development of Migrant Worker Families by means of coordinating them at grass root level. This programme has been implemented through the coordination of Divisional Secretariats, (cover 331 Divisional Secretaries) and the District Political Authorities. They represent Sri Lanka Bureau of Foreign Employment at village level. Among the many services provided, the '*Rata Viru Diriya Piyasa* Housing Programme is an important project implemented through this Organization.

The Sri Lanka Bureau of Foreign Employment with the technical assistance from ILO Country Office in Sri Lanka published the '**Safe Labour Migration Information Guide**' in March 2015.¹ This information guide was published to provide accurate and up-to-date information on different stages of labour migration and make such information available at local levels, to minimize the many risks faced by migrant workers and their families in the labour migration process.

Mr. President,

Having perused the recommendations made by the Special Rapporteur, in his report, the Minister of Foreign Employment and relevant agencies, especially since the election of the new government, are committed to implementing recommendations and even consult the Special Rapporteur function in this regard as per requirements in future. I wish to make some clarifications in particular on the observations regarding the proposed '**Sri Lanka Employment Migration Authority Act**'. While acknowledging the economic and other material benefits that can be accrued through the remittances from overseas migrant workers, authorities in Sri Lanka have paid considered attention to the socio-cultural wellbeing of families, especially the needs of children. Hence provisions suggested in Article 74 of the new Act with regard to regulations on permitting women with children under 5 years of age to migrate for employment, is meant in good faith considering the welfare and protection of children.

Further, any step that could support an orderly migration process of a country, such as by way of having valid pre-departure certificates as stipulated in Article 73(4) will enable us to properly account for the migration outflows and also to follow up on their status throughout the cycle of migration. Additionally, the proposed valid pre-departure certificate can ensure that all departing migrants have been screened for their health conditions including for any communicable diseases, thus supporting the global health agenda.

Since Sri Lanka is also increasingly becoming a labour and migrant receiving country, with growing numbers of resident visa holders arriving each year, the Government of Sri Lanka has been working in close partnership with the International Organization for Migration (IOM) to ensure better health and development outcomes for all flows of migrant populations (inbound, outbound and internal) and the families they leave behind. The '**Sri Lanka National**

¹<http://www.ilo.org/dyn/migpractice/docs/269/Guide.pdf>

Migration Health Policy' launched in 2013, by the Ministry of Health as a multi-stakeholder and evidence-based approach involves 13 key Government Ministries and the technical support from IOM.²

Mr. President,

Use of counterfeit or forged feeding documents such as birth certificates or Identity papers in obtaining international travel documents is not an uncommon issue in many developing countries, and prevention of such malpractices is a challenge. However, in Sri Lanka, all possible steps are being taken continuously by remaining alert to ensure that such incidents do not occur, especially for the sake of migrant workers at the recruitment process. In Sri Lanka, the new 'N' series passport that has been issued by the Immigration and Emigration Department since 2003, in line with the ICAO standards has helped in rectifying lapses in the security features in the previous series of manually issued passports. The Department is in the process of further developing a fool-proof passport using state-of-art technology and this new **e-passport that includes biometric data**, is expected to be issued by end of 2015.

Further, the Government is mindful of the need to strengthen 'Document Forgery Alerts' and improving the capacity of the '**Integrated Inquiry Management System**' at the Department where other State agencies could receive immediate verifications on travel documents. With the support of IOM, the matter of how best all agencies that are responsible for issuance of important feeder documents, such as the Department of Registrar of Persons and Divisional Secretariats could be linked³. We welcome opportunities to improve our capacity to develop an integrated verification system and would be pleased to incorporate best practices in these areas.

The other most important institutional mechanism to assist migrants at destination countries is through the labour attaches seconded to Sri Lanka Embassies overseas from the Ministry of Labour. Such offices have been established within seventeen Sri Lankan Missions abroad to facilitate Sri Lankan migrant workers receiving countries. We have also focused on improving the services of labour welfare officers and take note of the need to have more female welfare officers to handle gender related issues. Sri Lanka is in the constant process of upgrading and closing the gaps in its consular services. The

²<http://www.migrationhealth.lk/#>

³<http://srilanka.iom.int/iom/sites/default/files/pictures/slides/IOM%20CBMM%20Book.pdf>

introduction of an 'Operational Manual for Labour Sections of Sri Lankan Missions in Labour Receiving Countries' in 2014, is a considered decision in this regard, which requires full compliance. On the other hand, the migrant workers are also always encouraged to follow the guidelines introduced by the SLBFE, to ensure transparent recruitment practices in Sri Lanka.

The change of Government following the Presidential election held in Sri Lanka on 8 January 2015, has ushered in an atmosphere necessary for greater focus on *inter alia* independence of institutions including the Human Rights Commission. In this regard, the Sri Lanka Parliament adopted the 19th Amendment to the Constitution on 28th April 2015, which will set up an independent Human Rights Commission among other independent commissions.

The Government hopes that setting up of an Independent Human Rights Commission, following the constitutional amendment, would enable the Human Rights Commission to obtain 'A' status accreditation in compliance with the Paris Principles relating to the status of national institutions. It helps and improves consultations in all migrant related issues including labour migration from Sri Lanka as well as detention of migrants in Sri Lanka. An independent human rights commission also would facilitate relevant stakeholders in the migrant workers industry, trade unions, and civil society organizations in working for the betterment of the human rights of migrant workers and returnees.

Mr. President,

We note the observations by the Special Rapporteur that there is a large mismatch between the international demand for jobs and the supply capabilities of Sri Lanka, as demand is mainly for skilled labour, while Sri Lankan migration is concentrated on housemaids and low-skilled workers.

In this regard wish to inform that authorities in Sri Lanka are giving due consideration and gives particular attention both locally and regionally to **increase the migration of skilled workers**, including through better vocational training. With a view to mitigate the issues of migrant workers abroad, the Sri Lanka Bureau of Foreign Employment (SLBFE) has introduced a training system for migrant workers, i.e Level 3 qualification of 'National Vocational Qualification' (NVQ). Over 75,000 persons had been trained during 2013. Among them, 4101 persons qualified NVQ Level III Training (21 days programme) to become Domestic Housekeeping Assistants. (NVQ III qualification is compulsory for those who go to KSA, Cyprus, Hong Kong &

Singapore). Further, 18,054 female domestic workers completed Pre-Departure Training during 2013. While 3025 re-migrating domestic workers were trained, 45,565 male and females were trained for non-domestic sector employments. The introduction of this training system has reduced the number of complaints of migrant workers from 52% to 33%. Any migrant worker, who has Level 3 NVQ, is considered as a "house-keeping assistant". House-keeping assistants are eligible to claim for better benefits, such as insurance during their employment in the receiving country

Mr. President,

On the regional front too, as the Chair in Office of the **Colombo Process**- a Regional Consultative Process (RCP) on the management of overseas employment and contractual labour for countries of origin in Asia, Sri Lanka is working closely with its members focusing on five priority thematic areas, namely; *'the qualification recognition and monitoring, enhancing ethical labour recruitment practices and awareness, pre-departure orientation, empowering and reintegrating returned-migrants, facilitating cheaper, faster and safer transfer of remittances, as well as improving information sharing on labour markets and trends in destination countries'*. Sri Lanka has initiated dialogue among CP members, with the support of the IOM in Geneva, seeking to achieve tangible results in the above key thematic areas.

We are pleased to confirm that it has also already initiated **close interaction with the Abu Dhabi Dialogue (ADD) which has resulted in** Sri Lanka and several other CP members joining a pilot project on 'qualification recognition in the field of construction industry', in the UAE and Kuwait. Sri Lanka is also participating in the **'Fair Migration from Asia to Arab States'**- a Forum to discuss matters of mutual interest with receiving countries in the Arab region, regard to migrants.

Mr. President,

As noted by the Special Rapporteur, Sri Lanka practices a 'rating system', for licensed recruitment agencies to prevent abuses. We however recognize the challenges in **full implementation and monitoring of the rules and regulations stipulated for recruitment agencies**, and in particular the issues related to 'domestic workers', as their work is not covered by labour laws in many destination countries. Many of the issues/problems that migrant workers face in receiving countries are a result of the actions or inaction of the sponsors or employers and not only as a result of issues in connection with recruitment practices prevailing in the originating country. The Government has already completed bilateral labour Agreements with receiving countries (so far

with Saudi Arabia and Oman), and continues to explore possibilities for more bilateral arrangements to secure rights and benefits of migrants, including to minimize post-arrival alteration of job status and benefits.

The establishment of '**Migrant Resource Centers**' (MRCs), at regional level is a step in bringing closer the necessary information and facilities to rural populations planning to migrate for employments. The Government (SLBFE) has established a special Investigation Division to address the issues of exploitation of migrant workers at the recruitment process. This Division is empowered to take legal action against wrong doers. Annually, SLBFE entertains more than 3000 cases in connection with the exploitation of migrant workers. Cases are generally attended within 1- 2 months. This process was witnessed by the Special Rapporteur during his visit to Sri Lanka Bureau of Foreign Employment and acknowledged the will of authorities to resolve issues in connection to migrant workers.

Mr. President,

It has been recognized that in Sri Lanka, domestic workers choose overseas employment and some even make repeated efforts to realize their long term aims of building a house and to avail of better education facilities for their children. Repeated employment abroad by a father or mother of a family leads to issues including social issues that are detrimental to the family. Having taken into consideration this phenomenon, the Government offers to help the families of migrant workers build houses, by providing low-interest-rate loans before they leave Sri Lanka for foreign employment. They are encouraged to complete building their houses within the first six months of their work abroad. In addition, the Government provides low interest loans to start self-employment ventures upon their return from abroad. It helps migrant workers to commence their livelihoods domestically and avoid repeated migration for employment. While the SLBFE has also provided 13 houses free of charge during 2013, for disabled migrant workers, a special housing loan scheme of Rs. 300,000.00 has been set up for distressed migrant workers. During 2013 and 2014 the SLBFE has helped build houses for 506 and 539 migrant workers under these schemes. The SLBFE is also providing scholarships for the children of migrant workers to facilitate educational needs. During 2013, the Bureau has mobilized 2500 scholarships. This number is expected to be increased up to 3000 by 2015.

Mr. President,

Sri Lanka welcomes the Special Rapporteur's recommendation to refrain from sending migrants where the legal and institutional framework necessary to guarantee the protection of their rights is not in place. The authorities have been using mechanisms in this regard and continue to strengthen steps during the recruitment process, that are necessary to discourage migrant workers for their employment in countries where legal and institutional framework are insufficient.

Mr. President,

Sri Lanka is taking measures to prevent all forms of **irregular migration**, trafficking in persons and smuggling of human beings. In this context, Sri Lanka notes the SRs recommendation that **irregular migration** should be considered an 'administrative offence' and not to criminalize the migrants. The Government is taking action against those traffickers under due processes, while treating the migrants as victims of smugglers.

On the issue of **migrants in Sri Lanka**, it is noted that prior to the visit of the Special Rapporteur to the Mirihana Detention Centre for migrants, he met with the Controller-General of the Department of Immigration & Emigration (CG-I & E) who explained in detail, the administrative process undertaken by the Government of Sri Lanka (GoSL) with regard to persons who have violated Sri Lankan Immigration & Emigration laws. The individuals in Boosa and the four children housed in Mirihana centre that were referred in the Report have been released in September 2014.

Despite not being a signatory to the 1951 Convention Relating to the Status of Refugees, Sri Lanka has been accommodating refugees/ asylum seekers in the country. Sri Lanka has also been facilitating the work of the UNHCR as per the working arrangement between the Government and the UNHCR in 2006.

We wish to state that detention of irregular migrants is a step taken in accordance with the rules and regulations of the Immigration and Emigration of Sri Lanka. It is not the intention of authorities to detain families and children, except in certain exceptional circumstances, where authorities are compelled to keep them in approved places to ensure the security and safety of such foreigners. Sri Lanka is aware of the importance of looking at the issues related to irregular migrants into Sri Lanka in a nuanced manner and the need to develop a coherent national policy, as well as the additional capacity and

resources required as a developing country, to handle matters related to migrant welfare.

Mr. President,

The visit undertaken by the Special Rapporteur on the Human Rights of Migrants was significantly important to Sri Lanka not only as a step of engagement with the UN system but also as an important learning experience and an opportunity to exchange ideas and draw on best practices. This was an enriching exercise for the Sri Lankan authorities working on issues pertaining to migrant workers and in the industry. The visit, therefore contributed to focusing on best practices already in place in Sri Lanka for safeguarding the rights of migrant workers and also to identify areas which require further attention.

We thank the SR for his recommendations, and we reiterate our commitment to cooperate with him in the spirit of open and constructive engagement.

Thank you.