Statement by Mr. François Crépeau
SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS OF MIGRANTS

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Chairperson,
Distinguished delegates,
Ladies and gentlemen,

Due to the great importance governance has on migration, and in light of the High-level Dialogue on International Migration and Development, which was held by the General Assembly on 3-4 October, I decided to focus my report this year on examining global governance processes on migration, in particular with a view to analyzing whether human rights are effectively included and mainstreamed therein.

Let me first say a few words about the methodology applied for this report. I have made observations on the governance of migration in my work as Special Rapporteur, including at meetings I have attended, such as the GFMD in 2011 and 2012. In my capacity as Special Rapporteur, I have also observed first-hand the important work carried out on migration related matters by international organizations, both at headquarters level and in the field, during my country visits. Based on these observations, and further desk research, consultations were held at an expert meeting organized in Geneva in June 2013, where some of my ideas for the report were discussed. I thereafter informally sought input from several interlocutors on the draft report, but no formal consultation was held. My intention with the report was not to single out any particular organization or forum. My aim was to provide an overarching summary of what I believe to be the key architecture in migration governance, and provide some constructive criticism on how to better protect the human rights of migrants in the sphere of international governance processes.

The report provides a brief overview of recent developments relating to global migration governance, both inside and outside the UN, including the first High-level Dialogue, held in 2006, and the creation of the Global Forum on Migration and Development and the Global Migration Group. I note that due to the lack of a comprehensive framework, global migration governance remains somewhat fragmented, with different institutional approaches and normative frameworks relating to specific aspects of migration, such as the human rights of migrants, smuggling of migrants, trafficking, refugees and asylum seekers, and labour migration. I note that there is no migration organization within the United Nations, and no coherent institutional framework governing migration. There is no lead agency with a comprehensive mandate on migration. States continue attempting to govern migration largely on a unilateral basis, which has led to a lack of coherence between global, regional and national governance. I further observed a retreat from binding UN-based frameworks, with State preference for informal processes. The lack of transparency and accountability of several of these processes may have a negative impact on the human rights of migrants.

The report further looks at migration governance at the regional level (economic communities and Regional Consultative Processes), as well as the bilateral and national level. The EU is used as an example to show how, even with a high level of integration, the individual EU member States continue to have the jurisdiction to decide on the number of migrants they wish to admit to their territory. Thus, more governance does not mean giving up sovereignty.
I note of course that States have the power to determine who enters and stays in their territory. More governance does not mean giving up this sovereignty. On the contrary, States would have more control if there was more migration governance. More governance simply means improving the coordination and cooperation between States, leading to better governed migration that would better respect human rights. This would also assist States in combating exploitation of migrants by, inter alia, traffickers, smugglers, recruitment agencies and unscrupulous employers. Currently, migrants themselves, often with the help of smugglers, are crossing borders regardless of State policies. They migrate irregularly due to a lack of regular migration channels, and largely in response to unrecognized labour needs in destination States. If States would recognize such labour needs, including for low-skilled work, and open up more regular migration channels, as well as sanction unscrupulous employers who exploit irregular migrants, this would lead to less irregular border crossings, less smuggling of migrants, less loss of life at borders, and less migrants’ rights violations. States would still have the sovereignty to decide on the number of migrants they wish to admit. Global migration governance should thus be seen as reclaiming sovereignty, not ceding it. Indeed, global migration governance would be advantageous for all States because States cannot deal with the global phenomenon of migration, unilaterally, bilaterally, or even regionally alone. Enhanced governance would allow for better responsibility-sharing for States associated with migration.

With this in mind, I have explored the need for better global migration governance and a strengthened institutional framework. In my view, such a system should be based inside the UN, and must have as one of its key priorities the human rights of migrants. Migrants should always be seen first and foremost as human beings with human rights, rather than agents for development. I have made some proposals for a revised institutional framework for migration at the UN. The report presents some possible future models for global migration governance, including the possibility of moving IOM inside the UN, with a revised, protection-based constitution.

One key recommendation of the report is to hold regular High-level Dialogues, every three years, which should be interactive and action-oriented, each with a rights-based negotiated outcome document. I believe this would contribute to better protection of the human rights of migrants.

Concerning the High-level Dialogue, I am pleased with the declaration that was adopted, and I urge all States to live up to their commitments made in this declaration. I note with appreciation that human rights permeated all discussions at the HLD and were not limited to the human rights roundtable. This was a stark contrast to discussions I have observed in other forums outside the UN, and I think this shows how beneficial bringing discussions on migration inside the UN can be, as the UN has human rights as one of its three pillars. I would hope that, at the next High-level Dialogue, States will also adopt a Plan of Action, in order to strengthen the follow-up to their commitments.

Before I conclude, I will now briefly turn to my 2013 report to the Human Rights Council. I decided to undertake a thematic study on the management of the external borders of the European Union and its impact on the human rights of migrants. I thus visited Brussels where I held consultations with key EU institutions responsible for border control and migration, and I undertook country missions on both sides of the Mediterranean, to Tunisia, Turkey, Italy and Greece. The findings and recommendations emerging from these visits were presented to the Human Rights Council in May this year.
In my report I note that despite a number of important advances, irregular migration remains largely viewed by the EU as a security concern that must be stopped. Within EU institutional and policy structures, migration and border control have been increasingly integrated into security frameworks that emphasize policing, defence and criminality over a rights-based approach. Investments in security apparatus have not been matched with investments in providing adequate protections for the human rights of migrants.

I believe the tragic incidents in the Mediterranean over the past few weeks show just how relevant this discussion is. In my report, I insist that the pull-factors, namely the demand in Europe for a seasonal, low-skilled, easily exploitable workforce must be recognized. I also insist on the need to open up more regular migration channels, including for low-skilled workers, thus reflecting the real labour needs of the European Union, as well as on the need to implement effectively the Employer Sanction Directive against employers who exploit irregular migrants.

In this respect, I was very pleased that several States and other stakeholders also raised the need to open up more regular migration channels in the discussions at the HLD. I urge all destination States to consider this carefully, in order to prevent loss of lives at sea, in deserts, in mountains, and other dangerous routes irregular migrants are taking, escaping from poverty and violence, seeking a better future for themselves and their families.

Thank you