

MC/INF/285

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NINETY-SECOND SESSION

IOM – UN RELATIONSHIP

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1. At its Eighty-fourth Session in December 2002, the question of the relationship between IOM and the United Nations was raised in the Council. The Council decided to establish an open-ended Working Group on Institutional Arrangements to explore the issue in greater detail. The Working Group's final report (document MC/INF/263) served as the basis for subsequent discussion at the Eighty-sixth Session of the Council in November 2003. On the latter occasion, the option favoured by the majority was a form of "improved *status quo*" and the Council decided that improvements to the existing cooperation agreement with the United Nations should be sought (see document MC/2126).
2. Consequently, the Chairman of the Council wrote to the UN Secretary-General informing him of this discussion and suggesting several possible improvements to the 1996 Cooperation Agreement (Annex I). Consultations began with the UN Secretariat on that basis, but for practical reasons it was informally agreed to await the findings of the Global Commission on International Migration (GCIM) – established in December 2003 with the encouragement of the Secretary-General – before resuming the discussion.¹
3. The GCIM report, released in October 2005, recognized *inter alia* the need for enhanced coordination among the various international organizations dealing with migration and made a recommendation to the Secretary-General to this effect. Thereafter, the UN Secretary-General met with the heads of the UN entities most involved in migration, along with IOM's Director General, and asked the already existing six-member Geneva Migration Group (GMG) to review its mandate and to make recommendations regarding the incorporation of new members. This led to the enlargement of the GMG, now the ten-agency Global Migration Group which has been meeting regularly since.²
4. The issue of institutional arrangements in the migration field was subsequently addressed in the Report issued by the Secretary-General in May 2006 in preparation for the UN High-Level Dialogue on International Migration and Development (HLD) (A/60/871). This report contained specific proposals in terms of intergovernmental cooperation and acknowledged the expansion of the GMG as an instrument for enhancing inter-agency cooperation.
5. Following the issuance of the aforementioned report, the Director General wrote a letter to the Secretary-General which, *inter alia*, touched upon the issue of the relationship between IOM and the UN. In that letter, the Director General raised the possibility of exploring two options: (a) reinforcing the *status quo* through new agreements which would acknowledge, among other things, IOM's important role in migration while remaining an independent entity; or (b) exploring formal institutional association with the UN. Replying on behalf of the Secretary-General, the Deputy Secretary-General welcomed increased

¹ In parallel, the process of strengthening the programmatic and institutional links between the two organizations continued. Over the past three years, new Memoranda of Understanding and other agreements have been signed by IOM and WHO, UNIFEM, UNICEF and UNFPA, as well as ESCWA. Likewise various project agreements have been concluded with UNDSS and cooperation on humanitarian interventions has strengthened within the IASC, notably in the context of the "cluster approach".

² The GMG originally comprised ILO, IOM, OHCHR, UNCTAD, UNHCR and UNODC and has now added UN-DESA, UNDP, UNFPA, and the World Bank.

collaboration while underscoring that the choice between the two options was one for Member States, and in the first instance for IOM Member States, to make.

6. On the basis of this exchange of letters, technical discussions were resumed in September 2006 between IOM and several relevant UN departments and offices, under the coordination of DESA. These focused on exploring the following three points: (i) the status of implementation of the existing UN-IOM Cooperation Agreement; (ii) the possibilities for improving the *status quo*; and (iii) a preliminary examination of possible modalities for a more comprehensive agreement between the two organizations.

7. On the first point, it was noted that some provisions in the existing Cooperation Agreement could be further exploited to improve cooperation between the respective secretariats, e.g. the setting up of joint committees or technical bodies.

8. On the second point, regarding possible enhancements to the *status quo* suggested in the Council Chairman's letter, the discussion provided a number of clarifications.

(a) The terms of the current Cooperation Agreement already recognize, in the UN Secretariat's view, IOM's role in migration. Based on past precedent, higher levels of recognition and provisions for closer cooperation typically have taken the form of Specialized Agency Relationship Agreements and have included countervailing acknowledgment of the coordinating function exercised by ECOSOC and the General Assembly (UNGA) as well as the role of the Secretary-General.

(b) Current practice allows for IOM to participate by invitation, as an observer, in UN Country Teams as well as in the work of the UN Development Group (UNDG) in selected country-specific meetings. While there are inherent limitations in cooperation on such a basis, it can provide an *ad hoc* framework for greater inter-action as necessary in situations where cooperation is currently lacking or weak. At the same time, the discussions noted the trend towards increased intra-UN coordination and joint planning, e.g. for development, which could in fact limit the scope for engagement of non-UN entities in future.

(c) Concerning the potential for IOM to participate in the Chief Executives Board (CEB), it was underlined that this body was created precisely as a coordination mechanism between the UN and Specialized Agencies. While its membership was subsequently expanded to encompass UN Funds and Programmes, there was no scope for the membership of non-UN entities. Notwithstanding, *ad hoc* invitations to meetings of CEB subsidiary organs were possible, depending upon the agenda under discussion.

9. On the third point regarding a more formal institutional link between IOM and the UN, it was suggested that the sole viable option would be specialized agency status.³ Existing Specialized Agency Agreements vary significantly in terms of both legal and operational implications for the concerned organizations, but their basic features were clearly defined in

³ The association between the UN and the World Trade Organization (whose terms are described in MC/INF/263 para. 45) is based on exceptional circumstances, such as the temporary nature of WTO's predecessor, GATT, and its nature as an "agreement", not an organization. In the discussion with the UN it appeared that it cannot represent a realistic model for future relations with any other organization. However, a more relevant example can be found in the relationship agreements to the UN of the World Bank and the International Monetary Fund, which reserve to these entities a high degree of independence and include a non-interference clause with respect to loan determinations.

Articles 58 and 63 of the UN Charter. If there were a wish to pursue such an agreement, the procedure would entail the IOM Council inviting ECOSOC to enter into negotiations and ECOSOC, in turn, would create an *ad hoc* negotiating committee. Points for negotiation could include, for example, clauses preserving the current flexibility and responsiveness of IOM and precluding external interference with IOM project funding decisions. Once negotiations were concluded, ECOSOC and, subsequently, the UNGA on the one hand, and the IOM Council on the other, would have to endorse it. Based on recent comparable examples, the process could reasonably be expected to be completed within a two-year time span and would not require ratification by Member States.

10. In this connection, the UN provided indications on possible cost implications in the event of IOM acquiring specialized agency status. Whereas such status *per se* would not entail additional cost, the ensuing membership in the CEB and UNDGO would require IOM to join cost-sharing arrangements which are in place to support the administrative costs of those coordination mechanisms. These are based on criteria partly related to staff strength and partly to budget size. Moreover, specialized agency status would also normally entail adherence to such joint bodies as the Joint Inspection Unit (JIU) and the International Civil Service Commission (ICSC), with related cost-sharing. The UN has provided a purely hypothetical and indicative cost of the above for IOM, based on current parameters and its 2006-2007 biennium budget, at some USD 210,000 per annum. Regular reporting to ECOSOC and the GA might also have some, though limited, financial implications.

11. Whether IOM should remain an independent entity or consider more formal institutional association with the UN is a question for IOM's Member States to consider against the backdrop of changes in global migration trends and international consideration of migration governance since the IOM membership last addressed this question. Clearly, the international community is in a period of transition with respect to consideration of migration governance, and this period is not likely to be resolved overnight. The Administration has undertaken to provide the membership with adequate information to enable it to engage in informed consideration of the costs and benefits of this matter. The information contained in the present document complements that provided to the Council in 2003 in document MC/INF/263, when the Council last discussed the relationship between IOM and the UN. Many of the underlying considerations in the earlier document remain valid, but in the changed context of today, even familiar elements may merit re-examination in a new light.