

## Joining the UN family? Explaining the evolution of IOM-UN relations

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### Abstract

The International Organization for Migration (IOM) became a related organization in the United Nations system in 2016, and has rebranded as the ‘UN Migration Agency.’ This article examines the drivers and significance of this development, tracing the evolution of the relationship between IOM and the UN, and the process that led to IOM becoming a related organization. Some sceptics contend that IOM is still not really part of the UN system. In contrast, through an analysis of the status and political positioning of related organizations, I demonstrate that as a related organization IOM is indeed now part of the UN system. I argue that IOM’s work with forced migrants in the humanitarian sector played a pivotal role in facilitating this shift, and consider its implications.

**Keywords:** International Organization for Migration, United Nations, migration, displacement, humanitarianism, related organizations

### 1 Introduction

At the UN Summit for Refugees and Migrants in September 2016, UN Secretary-General Ban Ki-moon and International Organization for Migration (IOM) Director General Bill Swing signed a new Agreement Concerning the Relationship between the United Nations and the

International Organization for Migration, which repositioned IOM as a ‘related organization’ in the UN system. According to Swing, through this agreement, ‘United Nations now has a “UN Migration Agency.”’<sup>1</sup> Many inside and outside IOM and the UN were surprised by the quick negotiation of this agreement, which challenges the assumption that IOM has prospered because it was *outside* the UN system, unencumbered by principles or a formal protection mandate.<sup>2</sup>

This article examines the evolution of UN-IOM relations, focusing on the political processes and dynamics that led to IOM becoming a related organization in the UN system, an under-examined development in the limited literature on IOM.<sup>3</sup> Some question whether IOM, as a related organization, is really part of the UN system.<sup>4</sup> In contrast, I demonstrate that IOM is now functionally in the UN system, and examine divergent views on this development held by IOM, UN and member state officials. Although I consider its legal dimensions, in this analysis I am primarily concerned with the UN system as a *political* system, understood broadly as actors in ‘a nexus of relationships, both conflictual and cooperative, generated by common problems and the need to deal with them.’<sup>5</sup> While opinions on the motivations for and consequences of the 2016 agreement vary, IOM leaders aimed to protect—and expand—the agency’s ‘turf’ and rectify what they saw as an imbalanced situation in which IOM had become entangled with the

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<sup>1</sup> Swing 2016. This work was supported by the Social Sciences and Humanities Research Council of Canada. Thank you to my colleagues and *Global Governance*’s reviewers for comments on previous versions.

<sup>2</sup> On this assumption, see e.g. Ashutosh and Mountz 2011; Betts 2009, 54; Giorgi 2010; Pécoud 2018.

<sup>3</sup> Most examinations focus on legal analysis of the 2016 agreement, rather than political and institutional factors precipitating the change. See e.g. Guild, Grant and Groenendijk 2017; Goodwin-Gill 2019; Cullen 2019. For a discussion related to the arguments raised here, see Bradley 2020.

<sup>4</sup> See e.g. Pécoud 2018; Goodwin-Gill 2019; Guild, Grant and Groenendijk 2017; Cullen 2019.

<sup>5</sup> Gregg and Bakin 1968, 4; White 2002, 11.

UN and dependent on it, without the advantages of membership in the system. At the same time, UN leaders recognized member states' increasing support for IOM's entry into the UN system; the need for increased, operational capacity on migration within the UN system; and the possibility that if IOM were brought into the system, it could be more effectively prevailed upon to abide by the principles of the United Nations. IOM's entrance into the UN system seemed highly unlikely until 2015, when factors including the perceived global migration and refugee crisis kick-started rapid negotiations. However, this change must be situated in the longer history of collaboration and conflict in UN-IOM relations, with cooperation in humanitarian affairs serving as a pivotal foundation for this shift.

After providing some background on IOM, I sketch the history of IOM-UN relations, and explain the status of related organizations. I then map out the drivers and processes surrounding IOM's entry into the UN system, and analyze the 2016 agreement, including IOM's designation as a 'non-normative' actor and conclude by analyzing some of its early implications. My argument is based on analysis of IOM and UN policies, archival research at UN headquarters, and 66 in-depth interviews undertaken between 2015 and 2020 with IOM officials and member state representatives (including participants in the IOM-UN negotiations), independent experts, human rights advocates and representatives of major humanitarian NGOs and UN agencies.<sup>6</sup>

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<sup>6</sup> This included 21 IOM officials; 13 member state representatives; 13 human rights advocates working with UN agencies and NGOs; 12 representatives of humanitarian agencies (NGOs and UN actors such as UNHCR and OCHA); and six independent experts including academics and former senior UN officials. To facilitate open discussion of sensitive issues, interviewees participated anonymously and have been assigned a number used in lieu of identifying details. With participants' consent, their institutional affiliations are noted; alternatively, more general designations are used (e.g. UN agency official).

Interview data were analyzed through a grounded coding process that identified key themes and concerns, which inform my argument. To be clear, my aim is not to assess whether these developments are morally or politically laudable, or to evaluate IOM's contentious behavior regarding migrants' rights protection.<sup>7</sup> While I find this behavior deeply concerning, my goal is to explain how and why the UN-IOM relationship evolved, such that IOM was able to join the UN system as a related organization in 2016.

## 2 Background

Created in 1951 as the Provisional Intergovernmental Committee for the Movement of Migrants from Europe (PICMME) to help settle Europe's post-WWII displaced and 'surplus' population, the agency's name changed several times before emerging in 1989 as IOM, a global agency working under the banner of managed migration 'for the benefit of all.'<sup>8</sup> The agency was established outside the UN system with no Communist member states. At the time, the US Congress refused to allocate resources to tackle displacement to international organizations (IOs) with Communist member states—a position that initially constrained UNHCR's operations.<sup>9</sup> As its work in Europe waned, the agency subsisted on a shoestring, with an amorphous mandate and limited membership. In the 1990s, however, IOM began growing with a 'projectization' model whereby states effectively contract IOM to provide different services. IOM's membership

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<sup>7</sup> For important critiques, see e.g. Andrijasevic and Walters 2010; Ashutosh and Mountz 2011; and Lazarus and Doig 2018.

<sup>8</sup> Ducasse Rogier 2001.

<sup>9</sup> Elie 2010; Venturas 2015.

skyrocketed from 67 member states in 1998 to 173 in 2020, while its budget swelled from USD 242.2 million in 1998 to over USD 2 billion in 2020. With over 13,800 employees, IOM is now among the world's largest IOs.<sup>10</sup>

Scholarly literature on IOM remains scant. Existing research focuses primarily on its involvement in contested international migration management activities such as so-called 'assisted voluntary returns.'<sup>11</sup> However, humanitarian responses to displacement—themselves a means of managing migration—now comprise the majority of IOM's budget and field presence.<sup>12</sup> IDPs are by far the largest group of IOM 'beneficiaries,' but the agency also plays major roles in relation to refugees, and migrants in crisis situations. Importantly, IOM's Constitution does not formally define the populations with whom it is to work, and it has no formal mandate to protect the rights of the migrants (internal or international). Increasingly, the organization does employ human rights rhetoric and its entry into the UN system was preceded by the development of institutional policies and frameworks that more formally tie it to key human rights and humanitarian standards, including IOM's 2012 Migration Crisis Operational Framework, the 2015 Migration Governance Framework, and its 2015 Humanitarian Policy.

What is distinctive of IOM as an IO? IOM has concertedly fostered a reputation for flexibility, efficiency, logistical proficiency and operational capacity, and has expanded by strategically (or opportunistically) stepping in to fill important gaps in international responses to migration, particularly in humanitarian emergencies. Most IOs depend on donors, and present themselves as serving their members. Yet IOM stands out for its pronounced deference to its

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<sup>10</sup> IOM 2019a, 2; Bradley 2017, 97.

<sup>11</sup> See e.g. Geiger and Pécoud 2010; Andrijasevic and Walters 2010.

<sup>12</sup> Martin 2014, 143; Bradley 2017.

members, and its reliance on project-based funding. This has fueled concerns that it is driven by a ‘sell, sell, sell mentality’ and will ‘do anything for money.’<sup>13</sup> Coupled with its competitive bent and lack of a formal protection mandate, these characteristics have at times fostered mistrust and conflict with UN agencies, especially UNHCR.

### **3 The evolution of IOM-UN relations: 1951-2016**

The UN-IOM relationship is multi-dimensional, encompassing IOM’s connections to players including the Secretariat and UNHCR, and its position in the UN system overall. A constant refrain in IOM-UN relations has been rapprochement alongside competitiveness and tension. Alongside ongoing suspicion and competition, IOM and UNHCR in particular have worked closely together, including on returns.<sup>14</sup> By 2016, IOM staff already worked under UN salary scales, pension schemes, security systems and the UN Staff Rules and Regulations; the agency had memoranda of understanding and cooperation agreements with dozens of UN bodies, was a de facto member of many UN humanitarian country teams, and accessed various UN funding mechanisms. In many quarters, this created an impression of IOM as ‘quasi-UN,’ an amorphous status with frustrations and benefits for both the UN and IOM.<sup>15</sup>

#### ***3.1 IOM-UN relations in the Cold War***

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<sup>13</sup> Interview, humanitarian actor 7 (UN agency official), December 2015; Interview, member state official 4, December 2016.

<sup>14</sup> Elie 2010; Koch 2014.

<sup>15</sup> Interview, member state official 2, December 2016.

IOM's connections to the UN system trace back to 1951, when PICMME (renamed the Intergovernmental Committee for European Migration, ICEM) inherited the International Refugee Organization's fleet of ships to transport refugees and other migrants. Notwithstanding early collaborations such as the 1952 creation of a joint UNHCR-ICEM office in Hong Kong, UN-ICEM tensions emerged early, especially regarding mandates and coordination. In a 1953 letter from UN Secretary-General Dag Hammarskjöld to ICEM Director General Hugh Gibson, for example, Hammarskjöld raises concerns about the 'danger of duplication and overlapping.'<sup>16</sup> In 1956 Hammarskjöld received reports that ICEM-UNHCR relations were 'very strained,' with the High Commissioner for Refugees objecting to 'ICEM's intervention in what he considers to be his responsibilities.'<sup>17</sup> In early 1957, however, some senior UN officials reflected that previously 'difficult' relations with ICEM had 'become very close owing particularly to their wholehearted cooperation with the High Commissioner for Refugees on Hungarian refugee questions.'<sup>18</sup> Such interspersed conflict and rapprochement continued as the decades passed.

In some early interactions ICEM officials expressed interest (contrary to their member states' preferences) in joining the UN, and were rebuffed by skeptical UN counterparts. For instance, in a 1953 letter to Hammarskjöld, senior UN official Martin Hill indicates that ICEM Deputy Director Pierre Jacobsen raised 'the possibility of more formal relationships between

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<sup>16</sup> Letter from UNSG Dag Hammarskjöld to ICEM Director General Hugh Gibson, 3 August 1953, UN Headquarters Archive File #391 ICEM, S-0369-0030-06.

<sup>17</sup> Memo to UNSG Dag Hammarskjöld from Martin Hill, Deputy Under-Secretary for Economic and Social Affairs, 9 March 1956, UN Headquarters Archive File #391 ICEM, S-0369-0030-06.

<sup>18</sup> Letter from Andrew Cordier, Executive Assistant to the Secretary-General, to Martin Hill, 19 February 1957, UN Headquarters Archive File #391 ICEM, S-0369-0030-06.

ICEM and the UN,’ and ‘promot[ing] a movement within ICEM to request Specialized Agency status with the United Nations or some special form of relationship, giving ICEM United Nations recognition and standing.’<sup>19</sup> Hill warned this would be unlikely given ‘the difficulty of reconciling the ICEM constitution with the UN Charter, [and] the political objections that would no doubt arise from certain quarters’—a veiled reference to ICEM’s exclusion of Communist states.<sup>20</sup> Hill advised Hammarskjöld to ‘keep relationships with ICEM as informal and uncrystallised as possible,’ arguing that ICEM ‘rests indeed upon an arbitrary and anti-UN attitude taken by the US Congress, which we may well hope will one day be reversed.’<sup>21</sup>

### ***3.2 Post-Cold War dynamics***

While such skepticism persisted, IOM-UN rapprochement accelerated in the early 1990s as the end of the Cold War, the outbreak of several ‘complex emergencies,’ and institutional reforms within IOM fueled the organization’s growth, particularly in the humanitarian sector. For example, in 1992, IOM obtained observer status in the UN General Assembly, and joined the newly-formed Inter-Agency Standing Committee (IASC) (the primary humanitarian coordination venue for UN actors and partner agencies) as a standing invitee. In 1993, IOM became eligible for funding through the UN’s Central Emergency Response Fund.

An important 1995 policy document, *IOM Strategic Planning: Toward the Twenty-First Century*, emphasized this cooperation, but also growing tensions. According to this document,

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<sup>19</sup> Letter from Martin Hill to UNSG Dag Hammarskjöld, 4 August 1953, UN Headquarters Archives File #391 ICEM, S-0369-0030-06.

<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid.*

IOM ‘operates as a member of the team of multilateral agencies which forms the global emergency response network,’ but its contributions and expertise were not appropriately acknowledged or respected by the UN.<sup>22</sup> IOM argued that it ‘should receive reciprocal respect and support for its role and functions in the field of migration... this requires IOM Member States, which are also members of the United Nations organs and agencies, to establish and make clear such a policy decision’ and resolve debates on ‘the formal ties that do or should bind IOM and the United Nations system.’<sup>23</sup> In light of these concerns, UN Secretary-General Boutros Boutros-Ghali and IOM Director General Jim Purcell signed the 1996 Cooperation Agreement between the United Nations and the International Organization for Migration. The agreement emphasized the need for strengthened, collaborative responses to displacement and humanitarian crises, again underscoring the central role of cooperation in the humanitarian sphere to the development of UN-IOM relations. It promotes collaboration on joint initiatives, and in terms of technical and administrative arrangements; training; meetings; and sharing documentation, research and statistics.

Despite this agreement, tensions rose further when the 2002 Report of the Secretary-General, *Strengthening the United Nations: An Agenda for Further Change*, singled out migration as a key global governance issue meriting UN attention.<sup>24</sup> Accordingly, the Secretary-General’s Special Advisor, Michael Doyle, identified avenues to improve cooperation on

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<sup>22</sup> IOM 1995, para. 20.

<sup>23</sup> IOM 1995, para. 35. Some contest IOM’s claim that it respects other agencies’ mandated roles.

<sup>24</sup> UNSG 2002. Historically, the UN avoided discussion of migration issues in part owing to their perceived divisive nature. Initiatives such as the UN High Level Dialogues on migration and development helped allay some of these concerns. See Martin 2014, 235-269.

migration, including creating a new, migration-focused specialized agency, or transforming IOM into such an agency. Some senior IOM officials supported recasting IOM as a specialized agency, but were vexed that the UN might steer this discussion.<sup>25</sup> Therefore, on Director General Brunson McKinley's urging, in December 2002 the IOM Council created a Working Group on Institutional Arrangements for member states to explore IOM's 'place and role...in relation to the United Nations system.'<sup>26</sup> In conversations on the issue, the IOM administration was at pains to present itself as impartial. For example, McKinley stressed that

...the IOM Administration is not campaigning either for or against a change. IOM has done well by our independence and can continue to prosper as we are. Alternatively, under the right arrangements – ones that preserve our Constitution, our individuality and our special characteristics – I believe we could also prosper as part of the United Nations system... Of course, this question is fundamentally one for the Council, not the Administration.<sup>27</sup>

That said, the administration shaped the conversation by presenting three main options to the Working Group: (i) becoming a specialized agency; (ii) strengthening relations with the UN while staying outside the system ('improved status quo'); and (iii) no action.<sup>28</sup> The administration tacitly promoted the specialized agency option, but in 2003 most IOM members

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<sup>25</sup> IOM 2003, Annex III, paras. 4-7

<sup>26</sup> IOM 2003, para. 1.

<sup>27</sup> McKinley 2002.

<sup>28</sup> IOM 2003, Annex I, paras. 6-7.

avored improving the status quo.<sup>29</sup> To this end, UN-IOM collaboration improved on some fronts, but this depended significantly on the individuals involved.

The IOM leadership revived conversations with member states on the UN-IOM relationship in 2007, arguing more directly for a new relationship with the UN. The administration contended that existing arrangements were unfair, inefficient and incoherent, resulting in institutional overlaps and missed opportunities to leverage IOM's expertise.<sup>30</sup> As IOM's members were again unpersuaded, McKinley proposed a workaround, asking UN Secretary-General Ban Ki-Moon to invite IOM to join the UN Development Group (UNDG), the collection of UN agencies tasked with development planning, and attend the Chief Executives Board for Coordination (CEB), the UN system's highest-level coordination forum. While McKinley contended this would fill an operational and policy gap, 'deepen mutual understanding and encourage cooperation,'<sup>31</sup> Ban disagreed, asserting that these bodies were restricted to UN programmes, funds and specialized agencies.<sup>32</sup> Technically this was incorrect as related organizations like the International Atomic Energy Agency (IAEA) belong to the CEB, and IOM joined in 2016. Yet Ban's decision effectively limited IOM's integration into the UN system without recasting the relationship.

### ***3.3 Revived negotiations***

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<sup>29</sup> IOM 2003, Annex III, para. 33.

<sup>30</sup> IOM 2007, paras. 66-68.

<sup>31</sup> McKinley 2007.

<sup>32</sup> Ban 2007.

Structured discussions of IOM-UN relations were set aside following Swing's election as Director General in 2008. Instead, Swing focused on mending and strengthening connections with UN counterparts, attempting to (re)cast IOM as a more conscientious and reliable partner. While some tensions persisted, many suggest UN-IOM improved in this period with the benefit of Swing's diplomatic skills, prompting some IOM senior officials to conclude that 'There is nothing more we can improve... We have reached the limit' of the 'improved status quo' arrangement.<sup>33</sup>

Under Swing's guidance, the Working Group reconvened in 2014; by 2015 the perceived refugee and migration crisis brought fresh urgency to strengthening international responses to migration and displacement. Many states regarded IOM as an important partner on these issues, and saw the UN's patchwork of engagement on migration as untenable. While momentum grew to have a migration-focused agency in the UN system, donors were largely unwilling to fund a new organization, or dramatically revamp existing agencies. With member states broadly supportive of IOM's approach under Swing, the IOM Council passed Resolution 1309 on 24 November 2015, authorizing Swing to reach out to the UN to re-negotiate the IOM-UN relationship.<sup>34</sup> The General Assembly responded in April 2016 by 'Recognizing the *need* to establish a closer relationship' between the UN and IOM, and calling on the Secretary-General to negotiate a new agreement with IOM, for voting at the next General Assembly session, making the new agreement a high-profile 'deliverable' for the September 2016 Summit on Refugees and Migration.<sup>35</sup>

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<sup>33</sup> Interview, IOM official 14, December 2016.

<sup>34</sup> IOM Council 2015.

<sup>35</sup> UNGA 2016, emphasis added.

#### **4 Related organizations: Status in the UN system**

Despite IOM's rebranding as the 'UN Migration Agency,' some argue that as a related organization IOM remains outside the UN system, contending that 'Although banners and leaflets may suggest otherwise, [IOM] is not a United Nations agency, and neither has it "entered" or "joined" the UN. It remains an inter-governmental organization, still outside the system, but in a "closer relationship" with it.'<sup>36</sup> This section examines the status of related organizations, demonstrating that IOM is now part of the UN system as the UN itself explains it, and denotes attitudinal shifts within IOM on the merits of this status.

How is the UN system to be conceived? What is the status of related organizations? The UN Charter does not explicitly define the 'UN system' or the status of related organizations. However, White stresses that the 'UN "system" of organizations, organs and subsidiary bodies, agents, experts and employees is vast and diverse' and includes specialized agencies as well as related organizations.<sup>37</sup> To understand the contours of the UN system, attention must be paid not only to the legal status of entities in the system, but also the political realities created by how IOs position themselves and recognize one another, including as directed by their member states.

Related organizations and specialized agencies are both legally autonomous from the UN itself, and are governed and funded independently of the UN's principal organs. However, the creation and status of specialized agencies is addressed in some detail in the UN Charter, with Article 57 stating that 'various specialized agencies, established by intergovernmental agreement

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<sup>36</sup> Goodwin-Gill 2019. See also Pécoud 2018, 1632, 1622; Cullen 2019.

<sup>37</sup> White 2011, 298, 305; Rittberger 2002, 3.

and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63.’ Under Article 63, ECOSOC may conclude agreements to bring specialized agencies into relationship with the UN, with General Assembly approval. In contrast, the CEB indicates that ‘related organization’ is ‘a default expression, describing organizations whose cooperation agreement with the United Nations has many points in common with that of Specialized Agencies, but does not refer to Article 57 and 63 of the United Nations Charter.’<sup>38</sup> Agreements for related organizations are approved directly by the General Assembly.

The related agencies are remarkably diverse, ranging from prominent IOs like the International Criminal Court (ICC), the World Trade Organization (WTO) and the IAEA, to treaty secretariats such as the Organization for the Prohibition of Chemical Weapons and the Secretariat of the UN Framework Convention on Climate Change.<sup>39</sup> Known as ‘UN Climate Change,’ the UN Secretariat describes the latter as ‘the United Nations entity tasked with supporting the global response to the threat of climate change.’<sup>40</sup> These entities conceptualize, communicate and leverage their relationship to the UN system in strikingly different ways. The ICC clearly states that it ‘is not part of *the UN*,’ although the 2004 Negotiated Relationship Agreement between the International Criminal Court and the United Nations confirms that as an ‘independent permanent institution’ the court is ‘in relationship with the United Nations

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<sup>38</sup> UN CEB 2019.

<sup>39</sup> Szasz 1999.

<sup>40</sup> UN 2019a.

*system*.<sup>41</sup> While some related organizations like the WTO rarely address their UN links, for actors like UN Climate Change this is central to their place and influence in the international system. The related organizations, in their diversity, are explicitly acknowledged by the UN's member states, the UN Secretariat and the CEB as part of the UN system. Reflecting this, eight of the most prominent related organizations—including IOM—appear on the official chart of the 'United Nations System' produced by the UN Secretariat.<sup>42</sup> The Secretariat notes that the chart reflects the 'functional organization of the United Nations system,' suggesting that the Secretariat itself distinguishes between the formal legal identity and position of particular entities, and the question of which institutions are functionally part of the UN system as a practical matter and political enterprise.<sup>43</sup>

Is there a distinction between being in the UN system and being a UN agency *per se*? The position of the Office of the Legal Adviser in the US State Department is that legally related organizations *and* specialized agencies alike are separate institutions from the UN itself, and have independent legal personalities; on this view, 'neither specialized agencies nor related organizations are part of "the UN," but they are part of "the UN system."' In contrast, the funds and programmes are subsidiary bodies of the UN and do not have separate legal personality.<sup>44</sup> While some legal experts disagree with this characterization, it is certainly an influential view

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<sup>41</sup> <http://ask.un.org/faq/97157>; Italics added.

<sup>42</sup> UN 2019b.

<sup>43</sup> Ibid.

<sup>44</sup> Personal communication from the Office of the Legal Adviser, US State Department, on the status of related organizations including IOM vis-à-vis the UN system, 20 December 2016.

given the United States' prominence as a donor and powerbroker.<sup>45</sup> Klabbers lends support to this interpretation, writing that IOM's position 'was further solidified when in 2016 it joined the UN family, a group of some 20 international organizations closely related to and co-operating with the United Nations.'<sup>46</sup>

What are the practical consequences of being part of 'the UN' versus 'the UN system' or 'family'? Related organizations have less oversight from within the UN architecture than specialized agencies; for instance, related organizations are generally not obliged to report to the General Assembly, ECOSOC or the Secretariat. The significance of whether an organization is formally part of the UN or simply in the UN system is shaped in large part by how organizations position and portray themselves, how different actors interpret the consequences of these relationships for their obligations and activities.

Whether an organization becomes a related organization, a UN fund or programme, or specialized agency depends on the substantive issue at hand, and the history, sensitivities and specifics of the organization's work. Broadly, states have declined to establish funds or programmes when they want to eschew direct funding obligations, or more directly govern an organization. As discussed, IOM initially tacitly suggested that becoming a specialized agency was superior to related organization status, indicating that 'Seeking a related agency status whose contours are still ill defined would be more confusing than helpful.'<sup>47</sup> However, perspectives on the desirability of related organization status shifted along with institutional interests and member states' views. By becoming a related organization, IOM was able to address its primary

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<sup>45</sup> For dissenting views, see e.g. Cullen 2019, Goodwin-Gill 2019.

<sup>46</sup> Klabbers 2019, 390.

<sup>47</sup> IOM 2003, Annex III, para. 25.

concerns regarding its relationship with the UN, without ruffling its member states. Although some debates continue around the status of related organizations, from the perspective of many practitioners within the UN and IOM, these conversations appear largely academic, while the practical upshot of the 2016 decision is clear: as a former UNHCR executive put it, ‘They are in the UN, they’re called the UN Migration Agency, and they’ll be invited to all the key forums.’<sup>48</sup> Another UN humanitarian official reflected, ‘They’re seen as in the system...[IOM is] seen as part of the UN family, I don’t think people really distinguish.’<sup>49</sup> Or, in the words of a senior IOM official involved in the 2016 negotiations, ‘IOM is part of the system. Period.’<sup>50</sup>

## **5 Entering the UN system: Motivations, process and diverse perspectives**

In February 2016, as mandated by the IOM Council, Swing wrote to Ban to communicate IOM member states’ wish to change the IOM-UN relationship. Swing identified three options: make IOM a specialized agency, a related organization, or negotiate a *sui generis* agreement.<sup>51</sup> The IOM Council approved the draft agreement in June 2016 and the General Assembly in July 2016, followed by the signing ceremony at the September Summit.

In his signing ceremony speech, Swing contended that three main factors motivated IOM’s entry into the UN system: First, migration dynamics—especially humanitarian crises involving massive movements—required a robust international response, facilitated by IOM

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<sup>48</sup> Interview, independent expert 6, October 2019.

<sup>49</sup> Interview, humanitarian actor 10 (UN agency official).

<sup>50</sup> Interview, IOM official 14.

<sup>51</sup> Guild, Grant and Groenendijk 2017, 7.

becoming a related organization. Second, the timing was decisive: 2015 witnessed a perceived migration and refugee crisis, and the passage of major agreements related to displacement and migration including the UN Sustainable Development Goals, the outcome documents of the World Humanitarian Summit, and the Paris Agreement on climate change. Bringing IOM into the UN system would, Swing argued, advance efforts to implement these agreements. Last, in Swing's rosy view, the agreement simply 'formaliz[ed] an old relationship' as 'we have collaborated so closely that we have continued to think of ourselves as UN in many ways.'<sup>52</sup>

Unsurprisingly, the motivations for IOM becoming a related organization, and views on this change, are more complicated. These drivers were influential, but they shaped the process in ways unrecognized at the signing ceremony. One glaring but largely unspoken concern was the desire to claim and defend institutional turf. By 2016 it was clear that the UN system needed a migration-focused agency, and IOM wanted to avoid the creation of an institution that could challenge its claim as the leading IO in the field. IOM's interests here were aligned with donors loath to fund a new entity overlapping with IOM. Almost 30 UN entities engage on migration in various ways, but as none focus primarily on migration they were ill-positioned to take a leading role, especially operationally. This made it appear logical to facilitate IOM's entry into the UN system.

Regarding timing, the New York Summit itself was pivotal, especially to the decision to make IOM a related organization, not a specialized agency. Quickly hammering out the agreement responded to the perceived 'need for some low hanging fruit' to demonstrate progress from the summit.<sup>53</sup> As it became clear that the summit would initiate the multi-year Global

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<sup>52</sup> Swing 2016.

<sup>53</sup> Interview, IOM official 14.

Compact on Migration process, the push to bring IOM into the UN system gained momentum, so that IOM could help support the negotiations. Because the compacts were a UN undertaking, the general perception was that they should be facilitated from within the UN system. Making IOM a specialized agency would have required going through ECOSOC, extending the process and potentially compromising the September Summit deadline. The negotiators therefore choose the speedier option of making IOM a related organization.

### ***5.1 Member state perspectives***

Beyond turf and timing issues, the 2016 decision was of course decisively shaped by the perspectives of IOM's member states. The expansion of IOM's membership base was essential to marshalling political support for this change. In 2003, IOM's administration acknowledged that its relatively small pool of members was a barrier to joining the UN system, especially as a specialized agency. IOM counted 98 members in 2003; five large powers—China, Russia, India, Indonesia and Brazil—were only observers, and IOM had almost no Middle Eastern members, while most specialized agencies had 140-185 members, from all major regions.<sup>54</sup> IOM gradually and strategically persuaded new states to join, such that by 2016 almost all UN member states also belonged to IOM. IOM concertedly cultivated champions for its work among donor countries and major migrant-sending states, many of which were especially active supporters of IOM entering the UN system. Consequently, once the issue was decided among IOM's members, the only significant remaining hurdles came from the UN bureaucracy. Since influential governments, especially the United States, supported IOM's repositioning, UN opposition was dramatically curtailed.

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<sup>54</sup> IOM 2003, Annex 1, para. 59.

Certainly, when Swing re-launched discussions on IOM-UN relations, the member states were far from unified. Given the United States' historically dominant role within IOM (and its influence in the UN), many governments wanted the US to signal its position before solidifying their own. Washington's traditional stance was, as one official put it, 'Never, over our dead body, will IOM join the UN.'<sup>55</sup> However, Swing offered arguments for reform that the Obama administration found persuasive, particularly regarding the possibility of responding more effectively to vulnerable migrants in crises, without compromising IOM's efficiency and cost-effectiveness.<sup>56</sup> With US support secured, other donors and governments agreed to back a new relationship agreement.

Hurdles to renegotiating the IOM-UN relationship also emerged as many IOM members engage with IOM through their interior ministries, rather than their ministries of foreign affairs. Compared to diplomats inclined to value multilateralism, many interior ministry officials perceive the UN as interfering, impractical and bureaucratically inflated, and were concerned that joining the UN system would undermine IOM's efficiency and flexibility without concomitant gains.<sup>57</sup> Given such concerns, IOM's members placed clear parameters on Swing's negotiations with the UN. They supported IOM's inclusion in UN field operations and coordination and planning bodies, but required that IOM not sacrifice the qualities they most prized, including its independence, efficiency, responsiveness, and purportedly 'non-normative' character.

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<sup>55</sup> Interview, member state official 5, December 2016.

<sup>56</sup> Interviews, member state officials 4, 5 and 7, December 2016.

<sup>57</sup> Interview, IOM official 2, November 2015; Interview, IOM official 21, February 2020.

## ***5.2 Divergent perspectives within IOM***

With IOM's members insisting that the organization's entry into the UN system not compromise its distinctive institutional characteristics, the challenge became how to preserve these characteristics while locating IOM within the UN system. IOM officials themselves were split on the desirability, and possibility, of this move. Many saw joining the UN system as part of IOM 'growing up,' and a means of accruing influence in policy debates and operations. Yet some recognized clear costs in entering the UN system and were ambivalent about it. For example, as one staff member reflected, 'If IOM is unique and needs to be preserved, then probably the UN is not the best road for it.'<sup>58</sup> Some of IOM's humanitarian staff were concerned that joining the UN system would undermine the agency's operational focus and 'turn us into bureaucrats.'<sup>59</sup> In one staffer's view, IOM's extensive involvement in the UN-dominated humanitarian system means that integration is 'an unavoidable part of growing up'; yet 'from a business perspective—you're not supposed to talk about it this way but everyone does—there are aspects of our work that we would lose...so it's not just a win-win game...The last thing the world needs is another agency that [just] organizes meetings. If we lose the operations, then we're really screwed.'<sup>60</sup> Perspectives on the value of becoming a related organization depend on different interests and positions within IOM, with support for IOM's entry into the UN system particularly pronounced among younger generations of staff who are seen to place greater value on working in partnership with other agencies, and in active support of migrants' rights.

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<sup>58</sup> Interview, IOM official 13, November 2015.

<sup>59</sup> Interview, IOM official 11, November 2015.

<sup>60</sup> Interview, IOM official 9, November 2015.

### ***5.3 Divergent perspectives within the UN***

During the negotiation of the 2016 agreement, there was little public or open debate on the issue within or between UN agencies. Instead, while attention was focused on the perceived migration and refugee crisis, a relatively small group of high-level players settled the details, following the broad parameters set by IOM's members, who also comprised the vast majority of UN member states.

Perspectives within the UN were by no means unified. For some UN agencies and staff members, long experiences working with IOM in humanitarian operations provided a degree of reassurance, whereas for others they evoked qualms. Senior OCHA officials generally supported IOM's entry into the UN system—a position motivated in part by the sense that IOM was already operating like a 'full UN agency' in various humanitarian contexts, making the process largely a 'formality.'<sup>61</sup> For UNHCR, collaborative missions like the response to the 2011 Libyan revolution showed the potential for inter-agency cooperation, particularly regarding vulnerable migrants who are not refugees. However, some UN officials had deep concerns about IOM entering the UN system. Particularly within UNHCR and OHCHR, there were 'traditional concerns' about 'IOM's protection bloodstream,'<sup>62</sup> its lack of a formal protection mandate, and its readiness to question categories, terminology and definitions related to protection, such as the distinction UNHCR draws between 'refugees' and 'migrants.' Some within the UN had abiding concerns about IOM's protection record but suggested that excluding IOM because it lacks a formal protection mandate discounts IOM's progress in integrating protection standards into its

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<sup>61</sup> Interview, humanitarian actor 10 (UN agency official).

<sup>62</sup> Interview, humanitarian actor 1 (UN agency official).

policies and programming, and minimized UNHCR’s own repeated protection failures.<sup>63</sup> UN officials also questioned IOM’s projectized structure—explicitly preserved in the 2016 agreement—and its competitive approach, concerned that the ‘pay for play’ model leads IOM to undertake work incongruous with the purposes and principles of the UN.<sup>64</sup> According to some UN officials, projectization makes IOM an unreliable partner because IOM withdraws when its project-based funding dries up; the model also fosters competition and pushes IOM to ‘over-commit and under-deliver.’<sup>65</sup> Non-operational agencies, particularly the UN Department of Economic and Social Affairs (UN DESA), which is involved in migration research and statistics, also expressed concerns about competition and institutional over-reach. DESA steadfastly opposed IOM’s self-portrayal as the leading IO working on migration, and jockeyed for increased recognition for its own work.<sup>66</sup> Its concerns are reflected in the 2016 agreement in which the UN awkwardly recognizes IOM as ‘*an* organization with *a* global role in the field of migration,’ while conceding that IOM’s member states regard IOM ‘as *the* global lead agency on migration.’<sup>67</sup>

Although these concerns generated some ‘backdoor resistance’ to IOM joining the UN system, the move garnered high-level support within the UN, particularly from the Secretary-

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<sup>63</sup> Interviews, humanitarian actors 10 and 12 (UN officials); interview, human rights advocate 13 (UN agency official).

<sup>64</sup> Interviews, humanitarian actors 9 and 11 (UN officials).

<sup>65</sup> Interviews, humanitarian actors 7, 1, 2, 11 (UN officials).

<sup>66</sup> Interviews, independent experts 2 and 6; interview, member state official 4, December 2016.

<sup>67</sup> Article 2.1, emphasis added.

General, the UN High Commissioner for Refugees, and the OCHA leadership.<sup>68</sup> Generally speaking, these actors recognized powerful states' changed will regarding IOM's status, the need for the UN system to have dedicated, operational capacity on migration, including regarding the Global Compact on Migration, and acknowledged that donors were unwilling to fund a new UN entity. Reportedly, among some UN leaders there was also some optimism that by bringing IOM into the UN system it could be more easily prevailed upon to adopt and abide by the UN's norms. This high level support and political momentum for a rapid repositioning of IOM as a related organization in time for the New York Summit overwhelmed the opposition within some UN quarters.

## **6 The Agreement concerning the Relationship between the United Nations and the International Organization for Migration**

The 2016 agreement perfunctorily suggests that the purpose of the new UN-IOM relationship is to improve 'cooperation and enhance their ability to fulfill their respective mandates in the interest of migrants and their Member States,' but whether this change really benefits migrants is difficult to determine and remains to be seen. What then has the agreement achieved? Like the 1996 Cooperation Agreement, the 2016 agreement encourages cooperation in sharing information, expertise, research and statistics, promoting efficient administration, and avoiding the duplication. Further, the 2016 agreement provides for reciprocal, non-voting representation and participation in governance bodies; allows IOM staff to use the UN laissez-passer; and

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<sup>68</sup> Interviews, humanitarian actors 10, 9 (UN officials); interview, independent expert 6; interview, IOM officials 16 and 19.

establishes IOM as a full, formal member of the CEB, UNDG, IASC and all UN country and regional teams. On some readings these changes are modest as IOM was already part of many UN mechanisms.<sup>69</sup> Yet the agreement gives IOM the status and recognition it has long sought, confirms its leadership role on migration issues, and clears legal and bureaucratic obstacles to its continued growth. The agreement may curtail some migration-related work previously undertaken by others in the UN system, and hem in IOM activities that are in tension with international human rights, refugee and migration law, as IOM pledges in the agreement to abide by these standards, and the purposes and principles of the UN Charter.

As Swing's negotiating mandate required that the new relationship retain the 'essential elements' of IOM's institutional character, the agreement's significances lies not only in what it creates but what it preserves. The agreement reflects member states' vision of IOM as a 'non-normative organization with its own constitution and governance system, featuring a predominantly projectized budgetary model and a decentralized organizational structure'; its distinctive characteristics include 'responsiveness, efficiency, cost-effectiveness and independence' (Article 2.a). In reiterating language from resolution 1309, including the contested 'non-normative' characterization, the agreement implies that IOM and its members want to play the game both ways: they are keen for IOM to have the influence and gravitas associated with the UN; many IOM and government officials want IOM to more actively and reliably advance migrants' rights, and in some senses the agreement provides a stronger basis for this. Yet they want these benefits without giving up characteristics that have sometimes facilitated IOM's involvement in disreputable and even dangerous behavior. In this way, the agreement doubles

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<sup>69</sup> Micinski and Weiss 2016, 2.

down on the tensions that have shaped IOM and its role in the international system since its creation.

### **6.1 A ‘non-normative’ agency?**

On member states’ insistence, resolution 1309 and the 2016 agreement both characterize IOM as a ‘non-normative’ organization.<sup>70</sup> Previously, this term was not common to discourse around IOM; its deployment has generated concerns that it may legitimize actions incompatible with the values of the UN system.<sup>71</sup> ‘Non-normative’ is not standard terminology in the study of IOs, nor is it a legal term of art. In some senses it is nonsensical to describe any IO as non-normative in that they are all, in different ways, shaped by and involved in the transmission of various norms. Scholarship on international norms and IOs often focuses on the spread and influence of ‘good’ norms such as ‘protecting the environment, enhancing human rights, and controlling the spread and use of heinous weapons.’<sup>72</sup> However, IOs may also be implicated in promoting norms that sit uneasily with such ‘positive’ norms, such as the principle of respect for state sovereignty and non-intervention. IOM is a case in point. Despite its non-normative designation, IOM has developed a raft of new policies, guidelines and frameworks that—in the absence of a constitutionally enshrined protection mandate—articulate its perspectives on and commitments regarding human rights and humanitarian principles. These include two over-arching institutional frameworks, the 2012 Migration Crisis Operational Framework and the 2015 Migration Governance Framework, as well as institutional standards such as the IOM Policy on Human

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<sup>70</sup> Interview, IOM official 2; Interview, member state official 1.

<sup>71</sup> Guild, Grant and Groenendijk 2017, 14.

<sup>72</sup> Legro 1997, 31; Finnemore and Sikkink 1998.

Rights and Migration (2009), the IOM Humanitarian Policy (2015), the Progressive Resolution of Displacement Situations Framework (2017), and the Framework for Addressing Internal Displacement (2017). Alongside its (still halting) efforts, as reflected in these documents, to internalize and externally advance ‘positive’ human rights and humanitarian norms, IOM has assertively promulgated the norm of virtually unfettered state sovereignty in admitting foreign nationals, and a range of related migration management norms. On some accounts IOM has been the ‘biggest driver’ of recent norm-setting efforts on international cooperation on migration.<sup>73</sup> These norms defy easy categorization as ‘good’ or ‘bad,’ in that they typically increase mobility for privileged populations, while constraining those deemed less deserving or desirable—which, depending on political and moral perspectives, may be seen as laudable or profoundly unjust. IOM’s designation as non-normative is particularly curious as the very day that Ban and Swing signed the agreement depicting IOM as non-normative, states tapped IOM to support the Global Compact on Migration process. While this process did not aim to create binding law, it was undoubtably normative in the broad sense of providing guidance and clarifying shared ‘standards of behavior defined in terms of rights and obligations.’<sup>74</sup>

How then should this designation be understood? During the negotiations, ‘non-normative’ took on a particular connotation among the IOM administration and member states: that IOM would not be a venue for creating binding international norms on migration, in the way the ILO does on labor standards, for example. Interpreted from this vantage, IOM’s role in processes such as the Global Compact on Migration is fitting as the compact is not binding. On some levels IOM’s non-normative designation can be read analogously to UNHCR’s

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<sup>73</sup> Ferris and Donato 2019.

<sup>74</sup> Krasner 1982, 186.

characterization as ‘non-political’ in its Statute. Such words can have serious consequences.<sup>75</sup> UNHCR has sometimes used its ‘non-political’ designation to avoid challenging refugee-abusing governments, and IOM may hide behind the non-normative term. Yet these words are powerful in part because they enable useful fictions. UNHCR is clearly political, in that recognizing, assisting and protecting refugees are deeply and inescapably political tasks demanding political savvy. UNHCR is non-political in the narrower sense that humanitarian actors generally do not take sides in war or partisan politics. Characterizing UNHCR as non-political was critical to its creation amid Cold War divisions, and has meant the high commissioners have had to tread a careful path in executing their mandate. Similarly, labelling IOM ‘non-normative’ seems inconsistent with its acknowledged role in the 2016 agreement (Article 2.2) as an ‘essential contributor...in the protection of migrants.’ Its activities have inherently normative dimensions, much as UNHCR’s work has inescapably political dimensions, and it was a relatively narrow interpretation of ‘non-normative’ (i.e. not setting binding international standards) that informed the 2016 negotiations. To be sure, interpretations of the non-normative designation, and its consequences, may change and require close monitoring. However, this analysis suggests the term should be understood in political and historical context.

## **7 Conclusion: Implications**

The full implications of IOM’s entry into the UN system remain uncertain, and opinions are divided on its import. In some ways IOM continues with its business as usual, reflecting its significant prior imbrication with the UN system. As one senior UN humanitarian official

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<sup>75</sup> Forsythe 2001, Bradley 2020.

expressed it, ‘IOM was de facto already a UN agency.’<sup>76</sup> Moving forward, the differences may be most evident regarding IOM’s engagement in development activities, as it was already extensively engaged in UN humanitarian country teams, with humanitarian cooperation providing a critical foundation for the organizations’ evolving relationship.

Continuing business as usual is more significant than it may appear, as recent decades have witnessed dramatic growth and increased prominence for IOM; becoming a related organization enables IOM to preserve and sustain further growth. Critically, the 2016 agreement means that IOM’s anticipated expansion will take place *inside* the UN system. This may constrain some contentious work, in turn helping other parts of the organization to expand. For instance, some officials indicate IOM’s humanitarian efforts have been compromised by controversial migration management activities which have raised protection concerns and undermined IOM’s claimed humanitarian credentials. Others caution that IOM’s UN links may ‘blue wash’ unethical activities, a risk that demands continued attention.<sup>77</sup>

While IOM continues in some ways with business as usual, in other senses its entry into the UN system has already entailed some significant changes to policy and practice. IOM’s visibility within the UN system has increased markedly owing to its involvement in the Global Compact on Migration—a role it could play because it became a related organization. It has accepted important coordination mantles, most notably as the secretariat for the new UN Network on Migration. IOM is reportedly increasingly assertive in its coordinating roles; now that the agency is ‘within the circle,’ it is integrated into key decision-making forums and

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<sup>76</sup> Interview, humanitarian actor 9 (UN agency official).

<sup>77</sup> Hirsch and Doig 2018.

leveraging opportunities to shape system-level policies.<sup>78</sup> Some suggest that confidence and morale have increased within IOM, with staff proud to travel on the blue UN laissez-passer.<sup>79</sup> As one observer expressed it, ‘It’s a step up...It’s like a university joining the Ivy Leagues, it makes a big difference to them in terms of their morale.’<sup>80</sup>

The move has also bolstered IOM’s acknowledged legal obligations and, in some senses at least, its engagement on protection issues. Since becoming a related organization in the UN system, the IOM Legal Office has concluded that the organization is now obligated to uphold all the common laws and principles that bind UN agencies.<sup>81</sup> IOM now participates in the UN’s Human Rights Up Front initiative (from which it was previously sidelined on the grounds that it was not part of the UN system), and is obliged to support the implementation and monitoring of the UN’s mandatory Human Rights Due Diligence Policy, which may have important implications for its work in countries such as Libya.<sup>82</sup> Since 2016 IOM has also invested in more senior-level protection expertise at its headquarters, in part in order to increase the organization’s ability to realize the commitments and obligations that have come with its entry into the UN system.<sup>83</sup> More generally, IOM’s uptake of human rights discourse has arguably become more pronounced since 2016, and certainly more explicitly tied to the expectations of actors in the UN system. For example, IOM’s Strategic Vision for 2019-2023 reiterates its commitment to the

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<sup>78</sup> Interview, humanitarian actor 10 (UN agency official), September 2019; Interview, independent expert 6.

<sup>79</sup> Interview, IOM official 15, January 2018.

<sup>80</sup> Interview, independent expert 6.

<sup>81</sup> Interview, IOM official 17, December 2019; Interview, IOM official 19, January 2020.

<sup>82</sup> Ibid.

<sup>83</sup> Ibid.

‘principles enshrined in the Charter of the United Nations, including upholding human rights for all.’<sup>84</sup> While human rights advocacy organizations such as Amnesty International and Human Rights Watch intensively monitor UN agencies such as UNHCR, they have devoted much less attention to IOM, and were largely silent on the question of IOM’s entry into the UN system. Whether IOM entering the UN system generates more concerted attention and pressure from these actors remains to be seen, but this would be beneficial in terms of holding IOM to account for its obligations as part of the UN system.

Being part of the UN system presents new challenges for IOM. The agency will have to prove to its member states the continued value of the organization’s work within the UN system, and differences in working cultures, mandates and approaches will need to be navigated. The 2016 agreement stresses that IOM is to maintain its projectized structure, but some leaders inside and outside the agency are hopeful that IOM’s entry into the UN system may help it diversify its funding streams, and move away from being so project-dependent.<sup>85</sup> Some suggest that now that the IOM is a related organization, there is increased scope for cooperation with UNHCR, including on the protection of vulnerable migrants who are not refugees, and some more collaborative approaches have already emerged, such as UNHCR and IOM’s deployment of a joint envoy to address the exodus from Venezuela.<sup>86</sup> Yet on some levels, relationships with UN entities such as UNHCR and DESA continue to be tense and competitive, underscoring the need to ensure that IOM staff are trained to work effectively in an environment in which ‘partnership

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<sup>84</sup> IOM 2019b, ii.

<sup>85</sup> Interview, IOM officials 16, 19 and 21; Interview, independent expert 6.

<sup>86</sup> Interview, humanitarian actor 11 (UN agency official), November 2019.

is higher in the modus operandi' than in the past.<sup>87</sup> Hopes for improved cooperation were raised further when former Portuguese politician António Vitorino was elected IOM Director General in October 2018, given his service in the government of António Guterres, now UN Secretary-General. These developments imply that patterns of rapprochement and integration, alongside unresolved tensions, will shape future IOM-UN relations, and merit continued, close analysis.

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<sup>87</sup> Interview, IOM official 14.

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