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SELECT COMMITTEE ON
THE EUROPEAN UNION

A COMMON POLICY ON ILLEGAL
IMMIGRATION

WITH EVIDENCE

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CONTENTS

	<i>Paragraph</i>	<i>Page</i>
SUMMARY		5
PART 1: INTRODUCTION		9
The context of the inquiry		9
The Committee's approach	9	10
PART 2: THE NATURE OF ILLEGAL IMMIGRATION		10
Reasons for migrating	10	12
Definition of illegal immigration	17	13
Scale of the problem	24	15
Economic effects	28	16
Illegal immigration as a security issue	37	18
Future trends	43	19
Assessment	46	20
PART 3: THE COMMISSION COMMUNICATION—		
GENERAL PRINCIPLES	49	21
The Commission's proposals	49	21
A common policy	50	21
The United Kingdom's position	54	22
A comprehensive approach	55	23
PART 4: COMMISSION COMMUNICATION—SPECIFIC PROPOSALS	57	24
Visa policy	57	24
Common visa list	57	24
Joint visa issuing posts	62	25
Infrastructure for information exchange, co-operation and co-ordination	65	26
Border management	67	26
Police co-operation	71	27
Europol	71	27
Police action in the United Kingdom	76	28
Schengen Information System	79	28
Aliens law and criminal law	80	29
Carriers' liability and employer sanctions	80	29
"Regularisations"	83	30
Return and readmission policy and the external dimension	87	30
PART 5: SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS	95	33
Recommendation	117	35
Appendix 1: Minutes of Proceedings on the Report		37
Appendix 2: Sub-Committee F (Social Affairs, Education and Home Affairs)		38
Appendix 3: List of witnesses		39
Appendix 4: Call for evidence		40
Appendix 5: Note of Visit to Calais and Sangatte—Tuesday 25 June 2002		43
Appendix 6: Summary of Sangatte Research		48
Box 1: The Red Cross Centre at Sangatte		22
 ORAL EVIDENCE		
<i>Foreign & Commonwealth Office</i>		
Written evidence		1
Oral evidence, 24 April 2002		2
Supplementary written evidence		15
<i>National Criminal Intelligence Service and National Crime Squad</i>		
Oral evidence, 24 April 2002		8
<i>Statewatch</i>		
Written evidence		16
Oral evidence, 1 May 2002		29

<i>Joint Council for the Welfare of Immigrants</i>	
Written evidence.....	26
Oral evidence, 1 May 2002.....	29
<i>Dr Ferruccio Pastore</i>	
Written evidence.....	37
Oral evidence, 15 May 2002.....	40
<i>Professor Elspeth Guild</i>	
Written evidence.....	49
Oral evidence, 22 May 2002.....	53
<i>Dr Andrew Geddes</i>	
Written evidence.....	51
Oral evidence, 22 May 2002.....	53
<i>European Commission</i>	
Oral evidence, 27 May 2002.....	64
Supplementary written evidence.....	71
<i>Eurojust</i>	
Oral evidence, 28 May 2002.....	72
<i>European Institute for Law Enforcement Co-operation (EULEC)</i>	
Oral evidence, 28 May 2002.....	79
<i>United Nations High Commissioner for Refugees (UNHCR)</i>	
Oral evidence, 28 May 2002.....	87
<i>Home Office</i>	
Written evidence.....	92
Oral evidence, 19 June 2002.....	104
<i>Dr Gerold Lehnguth, German Ministry of the Interior</i>	
Oral evidence, 3 July 2002.....	115
<i>Europol</i>	
Written evidence.....	123
Oral evidence, 10 July 2002.....	124
WRITTEN EVIDENCE	
Anti-Slavery International.....	133
Association of Chief Police Officers (ACPO).....	136
Dr David Coleman, University of Oxford.....	141
Department for International Development (DFID).....	146
Immigration Advisory Service.....	147
Immigration Law Practitioners' Association.....	150
Migration Watch UK.....	158
Matloob Piracha and Professor Roger Vickerman, Department of Economics, University of Kent.....	160
Rail Freight Group.....	162
Dr Giuseppe Sciortino.....	165

NOTE: Pages of the report are numbered in bold type; pages of evidence are numbered in ordinary type. References in the text of the report are as follows:

- (Q) refers to a question in oral evidence
- (p) refer to a page of written evidence.

THIRTY-SEVENTH REPORT

5 NOVEMBER 2002

By the Select Committee appointed to consider European Union documents and other matters relating to the European Union.

ORDERED TO REPORT

A COMMON POLICY ON ILLEGAL IMMIGRATION

14239/01 Communication from the Commission to the Council and the European Parliament on a common policy on illegal immigration

SUMMARY

Illegal immigration is a major challenge to all Member States of the European Union:

- it undermines policies governing the admission of legal immigrants
- it creates insecurity among host communities
- it attracts the increasing involvement of organised crime
- it can place the illegal immigrants themselves in personal danger and at risk of exploitation.

It is an issue that has risen to the top of the political agenda in Europe, as shown by its prominence in elections in France and the Netherlands earlier in the year and the attention it received at the European Council meeting in Seville in June 2002.

Data about the scale of illegal immigration is very sparse but there are good reasons for thinking that it is likely to continue to grow.

The Commission's Communication proposes a comprehensive approach to tackling the problems of illegal immigration involving positive action in countries of origin as well as improved control measures; and a common EU policy.

The Committee endorses this approach. Its main conclusions are that:

- there is a need for a common approach at EU level
- there is an urgent need for effective measures to reduce illegal immigration and, in particular, illegal working
- the Member States are concentrating on control measures to the exclusion of positive measures, such as opening up channels of legal immigration and working with countries of origin
- it will be difficult for the United Kingdom to participate fully in a common policy on illegal immigration as long as it declines to participate in other EU policies on immigration, particularly visa policies.

PART 1: INTRODUCTION

THE CONTEXT OF THE INQUIRY

1. Since the entry into force of the Treaty of Amsterdam in May 1999 and the decisions taken by the Tampere European Council in October 1999 the European Commission has been putting together a comprehensive and complementary series of proposals on asylum and immigration. Its proposals on asylum and legal immigration have already been the subject of detailed scrutiny by the Select Committee.¹ The Commission's *Communication on a Common Policy on Illegal Immigration*,² which was submitted to the Council and the European Parliament on 15 November 2001, is the latest step in the Commission's efforts to secure a comprehensive approach by the European Union (EU) to the various challenges posed by immigration from third countries.

2. The Communication on illegal immigration complements two earlier Commission Communications in the migration policy field: one on a Community Immigration Policy³ and the other on an "open method of co-ordination for the Community immigration policy".⁴ In the first of these the Commission suggested a "new" approach to immigration involving a more flexible and pro-active immigration policy responding to the changing economic and demographic needs of the European Union. The main elements of this approach were the definition of a common legal framework for admission, action on the integration of third country nationals, and the monitoring of migration flows. In the second Communication the Commission made a number of proposals for the adoption of a guidelines-based "open" method of co-ordination of Member State policies in the field of immigration. This was motivated, at least in part, by the difficulties the Union was experiencing in adopting common legislation on immigration. With the first Communication largely focussing on legal immigration, and the second on the methods to be used for achieving progress at EU level, the response to the challenge of illegal immigration remained the only major gap in the comprehensive approach to migration policy advocated by the Commission. The Communication of November 2001 was intended to fill this gap.

3. The Communication draws on a favourable political context in the sense that during the last decade illegal immigration has been identified as a growing problem in nearly all the Member States, especially because of the negative implications for national labour markets and internal security that some associate with it. There has also been a growing awareness within the EU that illegal immigration problems can no longer be effectively tackled by purely national measures. The abolition of internal border controls within the Schengen area and the attractiveness of the EU as a destination for illegal immigrants have increased the Member States' mutual interdependence.

4. Some might have thought that the United Kingdom's island geography and its retention of internal border controls on passengers travelling from other Member States would have insulated it from these pressures. The death of 58 Chinese nationals concealed in a lorry crossing the Channel from Calais to Dover in June 2000 and the series of illegal immigration incidents at the Channel Tunnel linked to the Red Cross Centre at Sangatte near Calais have demonstrated that they have not. On the contrary, the removal of frontiers within the Schengen area has made it easier for illegal immigrants to reach the borders of the United Kingdom and has highlighted the extent to which the United Kingdom, despite being outside the Schengen area, is dependent on action taken (or not taken) by the EU as a whole and by other EU partners.

5. In the period during which the Committee has been conducting its inquiry events have moved very quickly. The political relevance of the Communication was underlined by the fact that, even before the inquiry started, the Council of Ministers had, with remarkable speed (in which we believe the events of 11 September were a significant factor), adopted on 28 February 2002 a "Comprehensive plan to combat illegal immigration and trafficking of human beings in the European Union" (the "Council

¹ *Minimum standards in asylum procedures*, 11th Report 2000–01, HL Paper 59; *A Community Immigration Policy*, 13th Report 2000–01, HL Paper 64; *Minimum standards of reception conditions for asylum seekers*, 8th Report 2001–02, HL Paper 49; *Asylum applications-Who Decides?*, 13th Report 2001–02, HL Paper 100; *Defining refugee status and those in need of international protection*, 28th Report 2001–02, HL Paper 156.

² COM (2001) 672.

³ COM (2000) 757 final, 11529/00, November 2000.

⁴ COM (2001) 387 final, July 2001.

Action Plan”).⁵ The plan took up all the areas for action suggested in the Commission’s Communication—from visa policy to readmission and return policy—and adopted many, but not all, of its proposals. Broadly speaking, it took a more cautious approach than the Communication on new legislative action, institutional structures and additional financial resources.

6. In the weeks following the adoption of the Council Action Plan illegal immigration issues acquired an increasingly prominent place on the EU’s agenda, giving even more salience to the subject of this inquiry than originally expected. One major factor was the huge politicisation of immigration as an issue in the French Presidential election campaign in April and May 2002. The unexpected success of Jean-Marie Le Pen from the far-right *Front National* in securing second place—ahead of French Prime Minister Jospin—in the first round of the elections in May appeared to be due to a considerable extent to his effectively capitalising on French concerns about immigration and particularly illegal immigration. In several EU countries, France and Spain, for example, as well as the United Kingdom, this reinforced the determination to engage in effective common action at the European level as one way of reducing the risk of exploitation of the issue by political extremists and racist groups.

7. Against this background the Spanish Presidency of the EU decided to make illegal immigration the central issue on the agenda of the Seville European Council held on 21 and 22 June 2002. Welcoming this move, the Prime Minister wrote on 16 May to the Spanish Prime Minister, José-Maria Aznar, deploring the lack of progress on the Tampere agenda in the asylum and immigration field and expressing his hope for a “strong push” to be delivered by the Seville Council. He called, in particular, for urgent action to strengthen the EU’s borders, the adoption of a tougher approach with countries of origin on returns, examination of the scope for Community funding to strengthen EU frontiers, and the speeding up of progress on EU asylum measures. In the run-up to the Seville meeting disagreements emerged between Member States about how to deal with countries of origin that were uncooperative, particularly about taking back their own nationals. The United Kingdom and Germany, in particular, advocated applying stronger pressure to them—including potential cuts in EU economic and financial aid—whereas others, such as France and Sweden, preferred to use carrots rather than sticks. It was in the end the latter approach that prevailed at Seville. But otherwise the European Council was in broad agreement on a range of measures to combat illegal immigration. It settled priorities for the implementation of the Council Action Plan of 28 February, established deadlines for legislative action on trafficking in human beings, and set targets for the gradual introduction of a co-ordinated, integrated management of external borders.

8. The Seville European Council reconfirmed the importance of the issues raised in the Commission’s Communication. And during the period of our inquiry the Commission has brought forward further proposals, as foreshadowed in it: on 10 April 2002 a Green Paper on the return of people residing illegally in the Community;⁶ and on 7 May a Communication on proposals for the integrated management of borders.⁷ We have taken account of all these developments in conducting our inquiry and formulating our recommendations. The Committee sent comments to the Commission on its Green Paper and proposes to conduct a further short inquiry early next year on the border management Communication building on this report.

THE COMMITTEE’S APPROACH

9. This inquiry was undertaken by Sub-Committee F of the Select Committee of the European Union.⁸ It complements the Committee’s earlier report on a Community Immigration Policy.⁹ In its Call for Evidence¹⁰ the Committee made it clear that it intended to examine the issues broadly within their overall global context, looking at the implications for foreign, development and trade policies and not simply the mechanisms

⁵ Council document 6621/1/02.

⁶ *Green Paper on a Community Return Policy on Illegal Residents*, COM (2002) 175 final. The Commission followed this up with a Communication to the Council and the European Parliament in October 2002 (COM (2002) 564 (01)).

⁷ *Proposals for a plan for the management of the external borders of the Member States of the European Union*, 9834/02.

⁸ The membership of the Sub-Committee is shown at Appendix 2.

⁹ HL Paper 64.

¹⁰ Reproduced as Appendix 4.

for preventing entry to the EU to those who do not meet the relevant entry conditions. To see and hear at first hand some of the problems related to illegal immigration members of the Sub-Committee visited the Red Cross Centre at Sangatte; had talks in Calais with a wide range of interested parties;¹¹ and visited the Immigration Crime Team at Heathrow¹² and the Home Office Removal Centre at Harmondsworth. The Sub-Committee also visited Brussels to discuss the issues arising out of the Communication with officials of the Commission and the Council Secretariat, members of the United Kingdom Permanent Representation, Members of the European Parliament and representatives of Eurojust, the United Nations High Commissioner for Refugees (UNHCR) and the European Institute for Law Enforcement Co-operation (EULEC). We are extremely grateful to all those who assisted us on these visits for speaking frankly about the problems facing them. We found them all very worthwhile. We also received an impressive and helpful body of oral and written evidence, and we are very grateful to all the witnesses who contributed to it.¹³ We were greatly assisted in our inquiry by our specialist adviser, Professor Jörg Monar, Co-Director of the Sussex European Institute, University of Sussex.

¹¹ An account of the visit is at Appendix 5.

¹² The team is staffed jointly by the National Criminal Intelligence Service and the Immigration Service.

¹³ A list of witnesses is at Appendix 3.

PART 2: THE NATURE OF ILLEGAL IMMIGRATION

REASONS FOR MIGRATING

10. Throughout history migration has been one of the most enduring features of human experience. Over the centuries there has been a multitude of reasons why people have sought to move from one part of the world to another. Nowadays the reasons prompting people to migrate include conflict, persecution and political instability; poverty, famine and natural disasters; and poor social conditions, lack of work and a desire to join family members in other countries. Many of these factors are inter-connected and in any individual situation there is likely to be a mixture of them.

11. There is an equally wide range of “pull factors” that attract people to particular countries. Some are, naturally enough, the converse of the “push factors”: political stability and protection of human rights for those escaping from war or civil disorder; relative economic prosperity for those living in poverty; and job opportunities, including seasonal work in hotels and restaurants and on farms, for those without work.

12. The different “pull factors” are likely to vary in strength between different Member States. Factors that may make the United Kingdom attractive to some categories of would-be migrants include:

- the existence here of established communities from many different parts of the world;
- the fact that for many migrants English is their second language and that an ability to speak English is a significant advantage in getting work (and for some offers the prospect of moving on to other English-speaking countries);
- a lower level of control by public authorities on access to work and public services (characterised by the absence of a system of identity cards); and
- for asylum applicants, a perception of how their applications will be handled and they will be treated while it is being considered.

Several other EU Member States, including France and Germany, have in recent years toughened their legislation and/or practices in dealing with illegal immigrants in areas such as checks on potential illegal immigration and more rapid expulsion procedures. Although the United Kingdom has also toughened its legislation, it is sometimes portrayed as offering higher “comparative” chances for not being detected and expelled than some other EU countries. This may be true for some migrants, although the research quoted below suggests that most asylum seekers at least do not have a sufficiently detailed knowledge of different systems to enable them to make such a fine calculation of their relative chances.

13. Different “pull factors” will weigh more heavily with different categories of migrants. As we discuss below,¹⁴ there is some overlap between illegal immigrants and asylum seekers, but it is important not to equate them. A clear understanding of the different terms is required. A refugee is a person who is recognised as having a well-founded fear of persecution under the terms of the 1951 United Nations Convention relating to the Status of Refugees. An asylum seeker is someone who is applying for refugee status but whose application has not yet been determined. If the application is successful (whether it leads to recognition as a refugee or the grant of “exceptional leave to remain”, a subsidiary status) the person concerned will not be an illegal immigrant. But if the application is refused outright, the presumption will be that he or she is an illegal immigrant, and must leave the country unless there is a successful appeal.

14. There is little hard evidence about the motivation of migrants. Two recent studies throw some interesting light on the reasons why asylum seekers come to the United Kingdom. Both studies challenge some common assumptions about their motivation. Indeed, some may not even decide their destination for themselves. Research conducted

¹⁴ Paragraph 23.

at Sangatte¹⁵ showed that in some cases the people-smugglers in effect dictated the destination. Their decision may be influenced by other factors, such as the existence of established smuggling routes. (We were concerned to learn from the Immigration Crime Team at Heathrow that in many major smuggling or trafficking operations there may be an element of corrupt collusion by some of those employed at airports or other ports of entry.) Research conducted for the Home Office also found that “agents” sometimes directed their “clients” to particular countries of destination.¹⁶

15. There is a widespread popular belief that the financial benefits (including housing assistance) available in the United Kingdom are better than those available elsewhere in Europe and therefore act as a powerful magnet for illegal immigrants. In fact benefits are not available to illegal immigrants, only to certain categories of asylum seekers. The supposed level of benefits available to asylum seekers is often greatly exaggerated, but in any event both the Sangatte and the Home Office research found that a perception of the level of State benefits was not a major factor in asylum seekers’ choice of destination. According to the Home Office report:

“The prospect of receiving benefits was found not to be a major factor influencing the destination of the respondents. In the short term many anticipated that they might receive state support, but in the longer term, most wanted to find a job and did not want to live on state benefits”.¹⁷

It also found that “none of the asylum seekers who were interviewed indicated that the United Kingdom was thought to offer more generous support than other possible destination countries”.¹⁸

16. The report concluded that finding work was an important issue for the respondents once they had reached a place of safety, but that the most important factors influencing their choice of destination (where they were able to exercise a choice) were, in order of importance: the presence of family and friends; language; cultural affinity; and perceptions of the country concerned.¹⁹ For illegal immigrants who do not follow the asylum route, it seems likely that the prospect of finding work relatively easily without a high risk of being detected is a stronger attraction. As Dr Giuseppe Sciortino, of the University of Trieste, put it in his evidence, “Most illegal immigration is, from the economic point of view, simply a labour migration not approved by the government”.²⁰

DEFINITION OF ILLEGAL IMMIGRATION

17. In the context of the historical movements of people the concept of illegal immigration is a relatively recent one. It was only when States were in a position to formulate rules governing the entry and residence of foreigners and to enforce them that contravention of those rules—and consequently the concept of illegal immigration—became possible.

18. The broadest definition of an illegal immigrant is someone who is present in the country without permission or in contravention of his or her conditions of stay. Some of our witnesses preferred to use the term “irregular migration” to avoid the imputation of criminality to those in this situation.²¹ This reflects a view that to try to move to another country to better oneself and one’s family economically, or to escape poverty and unemployment, is not in itself a reprehensible motive for migration; and that to do so outside the rules laid down is more in the nature of an administrative than a criminal offence (a distinction explicitly drawn in some jurisdictions, such as the Netherlands). This distinction does not exist in our domestic law, but a similar *de facto* distinction is drawn in the United Kingdom in so far as straightforward instances of illegal immigration, such as overstaying, are invariably dealt with administratively rather than

¹⁵ *Des étrangers en situation de “transit” au Centre d’Hébergement et d’Accueil d’Urgence Humanitaire de Sangatte*, Smaïn Laacher, June 2002. (An English summary of the report is at Appendix 6.)

¹⁶ *Understanding the decision-making of asylum seekers*, Home Office Research Study 243, London, July 2002.

¹⁷ *Op cit*, p 50.

¹⁸ *Ibid.*

¹⁹ *Op cit*, pp 62–63.

²⁰ p 166.

²¹ For example, Statewatch (QQ 71–72) and the Immigration Law Practitioners’ Association (ILPA) (p 151).

by criminal proceedings.²² While we understand the reasoning behind the preference for the term “irregular migration”, illegal immigration is the more common and generally used term (and the one used in the Communication itself) and it would be inappropriate for us to use a different one.

19. It is important, however, to recognise that the term “illegal immigrant” covers people in a very wide range of different situations. The popular perception of illegal immigrants is of people who set out with the intention of living in another country permanently and working illegally there, often entering clandestinely or with forged documents; and it is with them that the Communication is primarily concerned.

20. This is one category of illegal immigrant but probably a relatively small one in comparison with those who enter legitimately and then overstay the period for which they have permission to enter or remain. In the United Kingdom, as in most EU countries, there are no statistics of overstaying. Most entries by visitors are not recorded, and as there is no immigration control on embarkation, there is no way of checking whether someone has left the country, let alone of matching departures to arrivals. One of the few countries that do operate comprehensive checks on arrivals and departures is Australia. There overstayers (58,748 in 2000,²³ of whom British citizens were the single largest national category) greatly outnumber other categories of illegal immigrants—those arriving unauthorised by air (1695 detected in 2000) and sea (4,175).²⁴ It is quite likely that a similar pattern exists in the United Kingdom with the largest number of illegal immigrants in the widest sense coming from countries such as the United States which provide the largest number of visitors.²⁵

21. The nature of illegal immigration varies between different countries. In the United Kingdom public debate and policy responses focus almost exclusively on asylum seekers, to the point where the term is sometimes used almost synonymously with illegal immigrants. In many, possibly most, other countries there seems to be much less recourse to the asylum route and, as the Italian figures quoted in paragraph 24 below show, there is a large population of long-term illegal immigrants outside the asylum system.

22. In terms of the United Kingdom Immigration Rules²⁶ “illegal immigrants” include:

- overstayers (people who have entered legally in one of several different categories, for example as visitors, students, work permit holders, or fiancé(e)s, and not sought or not been granted an extension of stay);
- people who have permission to be in the country but are in breach of their conditions of stay (such as visitors working illegally);
- people whose asylum applications have been refused and who have had any appeals against refusal rejected; and
- illegal entrants (people present here who have not been granted leave to enter on arrival, for example because they entered clandestinely, or who obtained it by deception).

23. Some people may move from one category to another and indeed switch in and out of “legality”: for example, a person may enter clandestinely and later claim asylum; or may become “illegal” when evading expulsion after refusal of an asylum application or the termination of temporary protection. But in general there are considerable differences between the categories, in the gravity with which they are regarded and in the appropriate policy response to them. A complicating factor already referred to is the close linkage between asylum and immigration.²⁷ While the motivation to come here of some of those applying for asylum may be primarily economic, this is not true for all of them; and

²² The view that illegal immigrants are not criminals was also put clearly by the Economic and Social Committee in its Opinion on the Communication, which said, “Although it is not lawful to enter a country without the required documents and authority, those who do so are not criminals... Irregular immigrants are not criminals though their situation is not legal” (CES 527/2002).

²³ 60,103 in June 2001 (memorandum by the Home Office, p 101).

²⁴ Memorandum by Professor Guild, p. 49.

²⁵ In a sample of migrants in Lombardy quoted by Dr Sciortino over a third had entered Italy on short-term visas and subsequently overstayed (p 165).

²⁶ *Statement of changes in the Immigration Rules*, HC 395, as amended.

²⁷ Paragraph 13.

measures against illegal immigrants can easily put those with a valid asylum claim in an illegal situation, for example by making it difficult or impossible to enter legally. Visa requirements in combination with carrier sanctions make it difficult for asylum seekers to reach the territory of a Member State without at least at some stage having an illegal status.

SCALE OF THE PROBLEM

24. It is very difficult to get a true measure of the scale of illegal immigration. It is never easy to quantify illegal activity. Very few countries are able to produce even informed estimates. Dr den Boer, the Managing Director of the European Union Institute for Law Enforcement (EULEC), told us that a Dutch parliamentarian had estimated that there are some 100,000 illegal immigrants in the Netherlands.²⁸ The United States Census Bureau has put a figure of eight million on the number there.²⁹ But these are likely to be very rough estimates. In some countries large-scale “regularisations”³⁰ of illegal immigrants provide rather more reliable evidence of the numbers involved. In Italy, for example, approximately 217,000 undocumented foreigners were regularised in 1998, despite a somewhat larger number having been regularised only two years earlier (256,000 in 1995/96).^{31 32}

25. In the United Kingdom there are no official estimates of the number of illegal immigrants.³³ The only figures available that are directly relevant are those of illegal entrants and overstayers who are identified or proceeded against. In 2001 enforcement action was initiated against 76,110 people, of whom the great majority (nearly 70,000) were illegal entrants.³⁴ It is largely a matter of speculation to extrapolate from these figures the numbers *undetected*. The numbers identified or proceeded against may give an indication of trends over time, but they are more likely to reflect the level of activity by the enforcement authorities. The number against whom enforcement action was initiated rose by 120 per cent between 1999 and 2000 and by 50 per cent between 2000 and 2001. According to the Home Office these increases are primarily the result of changes in administrative working practices and an increase in the number of asylum cases processed by the Immigration Service in 2001.³⁵

26. One indicator of the level of illegal immigration in the United Kingdom is the number of asylum applications refused. Asylum applications have been at historically very high levels in the United Kingdom in recent years. In 2000 80,315 applications (excluding dependants) were received and in 2001 71,365, compared with 22,370 in 1993.³⁶ In absolute terms the level of applications is high in comparison with most other Member States. However in terms of asylum seekers per head of population the United Kingdom ranked only ninth within the EU in 2001.³⁷ Of 119,015 initial decisions taken in 2001, ten per cent were grants of refugee status, 17 per cent were grants of exceptional leave to remain, and the remaining 73 per cent were outright refusals. Apart from those successful on appeal, those refused outright would in effect have been illegal immigrants if they failed to leave the country.³⁸

27. The Home Office’s Immigration Research and Statistics Service currently has in hand a substantial programme of research designed not only to measure the illegally

²⁸ Q 253.

²⁹ Memorandum by the Home Office, p 101. Mr Flynn, of the Joint Council for the Welfare of Immigrants, referred to press estimates in the United States which commonly put the figure even higher, at 12 million (Q 66).

³⁰ The process of giving a legal immigration status to groups of immigrants without one.

³¹ Memorandum by Dr Ferruccio Pastore, Deputy Director, *Centro Studi di Politica Internazionale (CeSPI)* Rome, p 37.

³² An OECD study published in 2000 used information gained from regularisation programmes to study the main sectors in which undocumented immigrants were working in six OECD countries. They were: agriculture; construction and civil engineering; small-scale industry; tourism, hotels and catering; and services to households and business, including computer services (*Trends in International Migration*, OECD, 2000).

³³ In a Written Answer on 17 July 2002 Baroness Symons of Vernham Dean said, “For the UK, while there are no accurate means of estimating the numbers [of foreign workers living and working illegally], the most reliable indicators suggest that they could run into hundreds of thousands” (*Official Report*, Vol 637 No 172, WA 159).

³⁴ *Control of Immigration: Statistics United Kingdom, 2001*, Home Office Statistical Bulletin 11/02, 26 September 2002.

³⁵ *Op cit*, paragraph 33.

³⁶ *Asylum Statistics United Kingdom 2001*, Home Office Statistical Bulletin 9/02, July 2002.

³⁷ *Secure Borders, Safe Haven*, CM 5387, p 51.

³⁸ Of 43,415 appeals determined by adjudicators in 2001 19 per cent were allowed.

resident population, but to describe its characteristics, understand illegal residents' reasons for coming to the United Kingdom and explore the micro-economic impact of illegal working.³⁹ We warmly welcome this initiative, which will when completed provide a much better factual basis for the development of policies in this area.

ECONOMIC EFFECTS

28. Immigration is regarded as having generally positive economic effects. In its evidence to us the Home Office said that the research it had conducted "indicates that migration as a whole has a positive impact on the UK economy".⁴⁰ An analysis conducted by the Home Office in 2001 concluded that there was little evidence that native workers are harmed by migration. It said, "There is considerable evidence for the view that migrants create new businesses and jobs and fill labour market gaps, improving productivity and reducing inflationary pressures".⁴¹

29. It is difficult to make any separate assessment of the economic effects of illegal as opposed to legal immigration. The Home Office view is that, "It is probably the case that GDP is increased by illegal immigration".⁴² Research conducted by the University of Kent into Albanian migrants provides some support for this view in so far as it found that there were strong similarities between legal and illegal migrants.⁴³ To a large extent illegal, like legal, immigration meets a demand for cheap labour. Partly as a result of ageing populations in all EU countries there is a demand for low-paid workers (not only for manual work, but for work in the service industries and domestic work including caring for elderly people) which is not fully met by the resident labour force. Traditionally EU countries have not regarded themselves as countries of immigration, and legislation on legal immigration has accordingly been very restrictive. Yet demographic change and the increasing demand has led to more lenient practices of toleration and—in some countries, such as Italy—even large scale regularisations of former illegal immigrants.

30. In its 2000 Communication on a European migration policy⁴⁴ the European Commission proposed a "new" more flexible and pro-active approach to immigration policy, emphasising that more channels for immigration for economic purposes are needed to meet urgent needs for both skilled and unskilled workers. The Council has not yet formally endorsed this approach and few Member States have so far increased legal immigration possibilities. But to a greater or lesser extent all of them tolerate demand for low-paid workers being met by illegal immigrants; and a large proportion of the population takes advantage of it in the form of, for example, domestic help and cheap restaurant meals.⁴⁵ A number of EU countries, including the United Kingdom, are for the first time looking positively to encourage certain types of immigration.⁴⁶ This is largely limited to those with high levels of skills, although the Government has made some limited concessions to less skilled workers by extending the Seasonal Agricultural Workers' Scheme in order to meet the demand for short-term casual labour and the Working Holidaymakers' Scheme.

31. Given the United Kingdom's relatively low level of unemployment and lightly regulated labour market, which presents few obstacles to those working illegally, it is hardly surprising that it is a target for illegal immigrants (although, as described above, there is a range of other factors at work). The strictly economic effects of illegal, as of legal, immigration may well be positive: illegal immigrants are generally young and impose lower than average costs on the social services (to some of which they will not have access because of their illegal status), which probably outweighs the fact that they

³⁹ The research programme is summarised in Annex 1 to the Home Office's written evidence (pp 100–103).

⁴⁰ p 93.

⁴¹ *Migration: an economic and social analysis*, Home Office RDS Occasional Paper No 67, London, 2001.

⁴² p 92.

⁴³ Memorandum by Matloob Piracha and Roger Vickerman, p160.

⁴⁴ COM(2000) 757.

⁴⁵ As the Director of Europol put it, "I do not know how many well respected citizens are using an illegal immigrant as a housemaid, as a gardener, as a driver or whatever" (Q 391).

⁴⁶ In Germany too a new law actively encouraging immigration (of highly qualified people) will come into effect on 1 January 2003 (Q 358).

will not be paying tax or national insurance. (We were told at Sangatte that the majority of people there were not only young but also relatively well educated.)

32. Against these possibly beneficial economic effects, however, there are several serious objections to illegal immigration:

- as demand for cheap labour is partially met by illegal immigration, it can make it more difficult for the less skilled sections of the resident population to find jobs;
- it tends to lower wage levels and employment standards, with a potentially eroding effect on welfare provision generally;
- it gives those employing illegal workers an unfair competitive advantage, which may force competitors to resort to illegal employment as well or move parts of their production to countries where labour is cheaper;⁴⁷
- it is likely to act as a “pull factor” for further illegal immigration;
- it leads to the exploitation of the illegal immigrants themselves; and
- it provides opportunities for organised crime involved in the smuggling and trafficking of people and the provision of slave labour.

33. Illegal immigration also carries with it substantial costs, to which we referred in our report on *A Community Immigration Policy*. We quoted there estimates by the Association of Chief Police Officers (ACPO) that the smuggling and trafficking of persons world-wide was a business worth seven billion dollars annually and that the direct cost of policing illegal immigrants in Kent in 1998/99 was £4.3 million.⁴⁸ Direct policing costs are only one element in the overall cost of seeking to prevent illegal immigration. Other direct costs include those associated with the operation of frontier controls, tackling illegal working, and the removal and detention of illegal immigrants.⁴⁹ Indirect costs include unpaid tax and national insurance, some fraudulent welfare benefit claims, and unauthorised use of housing, education and public health services.

34. It is sometimes suggested that if immigration controls were removed altogether economic factors alone would effectively regulate flows of migrants to developed countries. This is unduly simplistic: economic factors are important, but they are not the only ones. Immigration also raises issues of social and cultural integration, and there are examples from all over Europe of uneasiness, rejection and in some cases outbursts of racism and xenophobia and even murder amongst the resident population in reaction to what are perceived to be high levels of immigration. Uncontrolled immigration would quickly encounter the limits of social acceptance, with a potential for unrest and the feeding of political extremism and xenophobia. In addition, it would be naive to assume that immigration would simply stop once labour market demands had been fully met or that immigrants would return to their own countries if a down-turn in Western economies led to a reduction in job opportunities in the EU. The economic wealth and the welfare standards of EU countries are such that they would continue to attract migrants from the poor and deprived regions of the world well beyond labour market saturation.

35. Nevertheless, unless governments adopt realistic policies towards labour shortages by opening up channels for legal migration to help fill them, there is little prospect of controlling illegal immigration effectively. In our report on *A Community Immigration Policy* we said:

“Managed migration, though not the whole solution to labour shortages, can play an important part in alleviating shortages in specific sectors, both high and low skill. But any immigration policy aimed at meeting labour shortages must be formulated in the wider context of employment policy. At the moment the relationship between the proposed Community policy and the existing policies at EU and Member State level to increase employment is far from clear. In such a sensitive area it is vital that this relationship should be made transparent.”⁵⁰

⁴⁷ Dr David Coleman argued in his evidence that, “Illegal immigration can permit the continuation, by exploiting labour in the worst sense of the word, of activities which either should not exist or should be automated, exported or abandoned if they are not sustainable at market clearing rates” (p 141).

⁴⁸ *Op cit*, paragraph 71.

⁴⁹ The Home Office is not able to isolate the costs attributable to illegal immigration from other costs within the Immigration and Nationality Directorate budget (p 94).

⁵⁰ Paragraph 59.

We see no reason to change that assessment.

36. We welcome the steps the Government have taken to increase the opportunities for legal employment for people from abroad. However, more could and should be done across the EU to increase the opportunities for legal immigration in order to meet identified labour shortages. Although clearly not the whole answer, it might significantly reduce the “pull factor” and could be economically beneficial. If legitimate ways for foreign workers to enter the labour market were increased and accelerated, governments would have no justification for turning a blind eye to illegal working and would have an incentive to crack down on it more effectively.

ILLEGAL IMMIGRATION AS A SECURITY ISSUE

37. One of the principal assumptions of the Communication is that illegal immigration represents a security issue for the Member States. “Security” can mean several different things in this context and it seems that the Commission was using it in a wide sense. There is little evidence that illegal immigration is a national security issue in terms of providing cover for terrorists, who are likely to prefer to avoid the risks of detection associated with the status of being an illegal immigrant. None of our witnesses suggested that there was such a link and some of them specifically discounted it.

38. There are no statistics of the incidence of the commission of criminal offences by illegal immigrants in the United Kingdom (other than by virtue of their illegal presence). There was some support for the view that illegal immigrants are likely to want to avoid drawing attention to themselves by breaking the law and may therefore be less likely than the population at large to resort to other forms of crime. As Lord Filkin put it, “what evidence we do have does not, I think, illustrate that there is a major criminal problem from the illegal immigrants themselves, who, in the vast majority of cases, not all, come here to work and therefore, one could well presume, they wish to keep a low profile and continue to work”.⁵¹ The Association of Chief Police Officers told us that its analysis indicated that “immigrants are no more likely to be offenders than members of the host population”.⁵² On the other hand, another witness pointed out that people who are in a country illegally are likely to be ready prey for the criminal fraternity; and that with no papers and no legal status they are tempted into illegal or criminal activity.⁵³

39. The most serious element of criminality associated with illegal immigration is the organised crime involved in smuggling and trafficking immigrants. The Deputy Director General of the National Criminal Intelligence Service told us that according to the 2001 UK Threat Assessment (which was unlikely to change significantly in 2002) three per cent of organised crime groups were involved in illegal immigration as their primary business and a further five per cent as a secondary business.⁵⁴ As destination countries have tightened up their admission criteria and entry procedures, those who do not qualify for entry (as opposed to overstayers, for example) have increasingly turned to people-smugglers to facilitate their entry. Virtually all those in the sample on which the Sangatte research was based had had recourse to people-smugglers, paying on average \$6000 each (but with wide variations). Most illegal immigrants pay the smugglers up front and are largely left to their own devices once they reach the country of destination. But there is also the more insidious phenomenon of people-trafficking, particularly of women and sometimes children for prostitution, which involves the continuing exploitation after entry, amounting to a form of slavery, of those brought into the country in this way.

40. The internal security concerns linked to illegal immigration are increased by signs that the proceeds of organised crime from the smuggling and trafficking of people are steadily growing to the point where it is said that some drug traffickers are switching from smuggling drugs to smuggling people because it is more lucrative—and less risky if

⁵¹ Q 314.

⁵² p 136.

⁵³ Mr Storbeck, Q 382.

⁵⁴ Q 24.

they are caught. Action against illegal immigration should therefore also be seen as an important element of the fight against organised crime.⁵⁵

41. Illegal immigration may also be seen as a security issue in a social sense as having a destabilising effect on society, if it takes place on a large scale and there is a perception that it is uncontrolled. It undermines legal migration policies and may cause hostility among the resident population towards the established legal immigrant community. The Director of Europol noted that illegal immigrants are outside the normal boundaries of society, which itself may give rise to social and medical problems and to friction with the resident population.⁵⁶

42. Finally, as Dr Pastore pointed out, there is also the human security element—the personal safety of the immigrants themselves, in terms of both the risks to their lives on the trip itself and their dependence on smugglers.⁵⁷ These are very real dangers as shown by the number of people who die en route. We referred above to the deaths of 58 Chinese people in June 2000. Dr Pastore cites UNDP estimates that 340 people died in the Otranto Channel in 1999, and there are many other examples.

FUTURE TRENDS

43. Migration pressures ebb and flow, according to a wide range of political, economic and other factors around the world. A consistently upward trend is not inevitable. Dr Gerold Lehnguth of the German Ministry of the Interior told us that in Germany, for example, the number of asylum seekers has reduced dramatically following the end of the conflict in former Yugoslavia.⁵⁸ But the pressures are unlikely to abate permanently, given political instability in many parts of the world, massive economic disparity between the developed and the developing world, the increasing ease and cheapness of travel and the ready availability of smuggling networks. Dr Andrew Geddes, of the Department of Politics and Communications Studies, University of Liverpool, pointed out in his evidence that international migration is on a rather small scale and that the vast majority of the world's population live and die within a relatively small area. While this is incontrovertible, the conclusion we draw, in the light of the factors mentioned above, is that the potential for it to increase is considerable.⁵⁹

44. We have considered the effect that enlargement of the EU is likely to have on migration patterns. On the one hand, the nationals of the new Member States will in due course have free movement rights. They will then no longer be subject to existing immigration controls, and the question of illegal immigration by them will not arise.⁶⁰ Experience may well mirror that of other recent accessions—of Greece, Spain and Portugal, for example—which resulted in far less movement from poorer to richer countries of the EU than had been predicted.⁶¹

45. On the other hand, the external border of the EU will move eastwards, become considerably longer and adjoin a new set of countries (including the Russian Federation, Belarus and Ukraine). Much will depend on how effectively it is possible to control the eastern border. Lord Filkin acknowledged that there were “good reasons to be concerned about the porosity of the accession countries’ borders”, which made it important to put in hand measures “to strengthen their border controls and ensure that the training of the border security forces is brought up to best possible standards”.⁶² Several of our witnesses took the view that the applicant countries were already putting in place effective immigration systems. The Director of Europol said that some of them are already “so

⁵⁵ In the United Kingdom this is organised under the umbrella of Project Reflex, a multi-agency response to organised immigration crime (Q 47).

⁵⁶ Q 383.

⁵⁷ p 38.

⁵⁸ QQ 357–358.

⁵⁹ There are also large variations in different parts of the world. The European Commission told us, for example, that the population of Moldova had fallen from five and a half to four million in the space of only a few years, presumably largely as a consequence of migration westwards (Q 181).

⁶⁰ The new Member States will not automatically enjoy free movement rights on accession. It is open to existing Member States to apply a transitional period. We understand that the United Kingdom is unlikely to insist on a transitional period.

⁶¹ Currently intra-European migration represents less than 0.2 per cent of the total population (*Trends in International Migration 2001, OECD*).

⁶² Q 321.

well functioning that they are better than most of the European Union countries”.⁶³ Dr Lehnguth told us that Germany did not expect any new or special problems to arise because of enlargement: Poland and the Czech Republic had already implemented “substantial border security reinforcement” and there was substantial operational co-operation with them. In any event the Eastern borders would not be opened until the accession countries met all the Schengen requirements, before which time Dr Lehnguth expected “quite a number of years to elapse, seven years”.⁶⁴

ASSESSMENT

46. Illegal immigration poses a serious problem to almost all the Member States and to the EU as a whole. Trafficking in human beings is a particularly pernicious crime and the involvement of organised crime in people-smuggling is a matter of serious concern. Despite its possibly positive economic effects, illegal immigration cannot be viewed with equanimity: any significant level of illegal immigration undermines the whole structure of legal migration and places increasing strain on a country’s social acceptance of immigrants.

47. Governments need to manage migration in a way that controls illegal immigration effectively. But in doing so they must not forget that they are dealing with people, most of whom are motivated simply by a desire for a better life for themselves and their families; and in devising measures to control illegal immigration they must ensure that they scrupulously observe their human rights obligations.

48. There is very little reliable information on the incidence of illegal immigration and in the absence of such data it is difficult to assess the effectiveness of policies designed to combat it. We welcome the research that the Home Office is currently undertaking on the scale and nature of illegal immigration in the United Kingdom and recommend that it should be pursued energetically. Attention should be given to producing a reliable estimate of the extent of overstaying.

⁶³ Q 386.

⁶⁴ Q 363.

PART 3: THE COMMISSION COMMUNICATION—GENERAL PRINCIPLES

THE COMMISSION'S PROPOSALS

49. Three basic assumptions about illegal immigration into the EU underpin the Communication:

- illegal residents should “not be considered as a pool to meet labour shortages”,⁶⁵
- illegal immigration has an internal security dimension;⁶⁶
- “illegal entry or residence should not lead to the desired stable form of residence”.⁶⁷

In our view the first of these assumptions is incontrovertible. To condone illegal working in this way would undermine the whole structure of legal immigration. We discussed in Part 2 the need to provide legal immigration channels to reduce the pressures to draw on illegal immigrants in this way, and the extent to which illegal immigration can be considered a security issue (paragraphs 37–42). We consider the third proposition in the context of “regularisations” in Part 4 (paragraphs 83–86).

A COMMON POLICY

50. However, the main principle underlying the Commission's approach here as in other areas of asylum and immigration policy is that the challenge of tackling illegal immigration will not be met by the Member States acting independently, but requires a common EU policy. We agree that there is a clear need for the slowly emerging Community immigration policy to be mirrored by a common policy on illegal immigration. There are good reasons for regarding the EU as a “common zone” of immigration in which economic migrants who have no legal possibilities to achieve their aim are likely to try to enter illegally those Member States where they expect to find the highest probability of being able to stay, the lowest level of control and the best reception conditions. This means that purely national restrictive measures are likely only to divert migratory flows to other Member States with less restrictive measures in place.

51. Some aspects of immigration policy may be left to national regulation, and in some operational areas bilateral co-operation remains an important framework for effective action. A good example of the latter is the problems associated with the Red Cross Centre at Sangatte, which we summarise in Box 1. But there is a clear risk that leaving policy responses to illegal immigration to national interests will result in Member States protecting their own position at the expense of their partners and lead to a vicious circle of increasingly harsh measures.

⁶⁵ Communication, p 6.

⁶⁶ Communication, pp 7–8.

⁶⁷ Communication, p 6.

Box 1*The Red Cross Centre at Sangatte*

The Red Cross Centre at Sangatte near Calais was set up in 1999 at the time of the Kosovan conflict in response to the large number of asylum seekers trying to get to the United Kingdom who were causing concern on the streets of Calais.

Up to 1500 people are housed in a vast hangar originally used for the construction of the Shuttle trains. Facilities are very basic. It is not intended as a place for people to stay for any length of time. Some are housed in portakabins, others in tents within the hangar. There is no heating or lighting for those in the tents.

The establishment of the Centre has been successful in taking the asylum seekers off the streets, but, has not dissuaded them from seeking ways of crossing the Channel. The measures that have been taken to combat their attempts are described in the account of our visit in Appendix 5.

There is a popular perception in the United Kingdom that the French authorities have done little to prevent this illegal traffic, which has caused massive disruption to the freight operations in particular.⁶⁸ We saw that this was far from the case. The measures they have taken include:

- ◆ acceptance of UK immigration officers at French ports
- ◆ substantial increases in police and security staff
- ◆ upgrading security at the freight terminal at Fréthun at a cost of €7.5 million (of which the Strategic Rail Authority is contributing half)
- ◆ upgrading security at the Port of Calais at a cost of €6.1 million for installation and €3 million a year operating costs
- ◆ taking tough action against the people-smugglers

Shortly after our visit, following meetings between the Home Secretary and the French Minister of the Interior, Nicolas Sarkozy, the French Government announced that the Centre would close not later than March 2003. After a further meeting in September it was announced that the Centre would stop accepting new residents in November and would be closed in April 2003. Existing residents would be registered and fingerprinted by the Red Cross. Efforts would be made to assist people to return home voluntarily.

We welcome these efforts to address the long-standing problems associated with the Centre, but draw attention to the concerns expressed to us by the authorities in Calais that closure was likely to lead to the return of the asylum seekers to the streets of Calais.

52. For some problems, such as the fight against organised people-traffickers and smugglers, national action alone lacks effectiveness. Immigration by definition involves crossing frontiers and, as most of the internal frontiers within the EU have been abolished, there is little prospect of tackling illegal immigration effectively without a common EU approach with corresponding internal and external action.

53. The Immigration Law Practitioners' Association criticised the Communication on the ground that it was not recommending a genuinely common policy, which would require the harmonisation of Member States' practices, but merely the mutual recognition of national measures.⁶⁹ It is true that in some areas full harmonisation is not proposed and to do so would be unrealistic at this stage, but the Communication does go well beyond mutual recognition and in our view represents a significant step towards a genuinely common policy

⁶⁸ Dr Coleman, for example, claimed that, "The policy of France, in locating its asylum camps close to the Channel Tunnel and its neglect of security at the rail terminal, constitutes an extraordinary act of aggression against a friendly neighbour" (p 144).

⁶⁹ p 151.

THE UNITED KINGDOM'S POSITION

54. From the time of the Tampere European Council the United Kingdom Government has consistently supported the development of a common immigration and asylum policy. In the light of this **it is disappointing that the Government, while enthusiastically endorsing measures designed to improve the enforcement of immigration controls, have consistently chosen not to opt into positive immigration measures, such as those relating to admission for employment and self-employment; family reunion; and protection for the victims of trafficking.**⁷⁰ A truly common policy needs to embrace both positive and enforcement elements and the Committee believes that United Kingdom interests would be better served by such an approach.

A COMPREHENSIVE APPROACH

55. The Communication's approach justifies the term "comprehensive". It starts with an emphasis on the need for a better analysis of the illegal immigration situation in the EU as a basis for more effective policy responses at the European level. This reflects the fact that there are still considerable uncertainties in most Member States as regards not only the different categories and patterns of illegal residents but also their overall numbers. The Communication then stresses the need for compliance with international obligations and especially the 1951 Geneva Convention relating to the Status of Refugees. This is a useful reminder, as a number of adopted or proposed EU measures in the area of migration and asylum policy have already been criticised by representatives of the United Nations High Commissioner for Refugees and human rights organisations. A key element of the Communication's approach is the importance attached to measures aimed at countries of origin and transit as the initial elements of the illegal immigration chain ("actors-in-the-chain approach"). The Commission's approach is also comprehensive in the sense that it not only includes measures—both internal and external—against illegal immigration but also several relating to legal immigration, which has been the subject of previous proposals and, as already mentioned, of previous inquiry by the Committee (in its report on a Community Immigration Policy).

56. The Communication adopts a balanced as well as a comprehensive approach containing a mixture of positive proposals and enforcement measures. But the Council Action Plan concentrated on the repressive measures to the exclusion of most of the more positive proposals. This follows a familiar pattern in the Council. Professor Guild pointed out that one positive measure, a proposal on long-term resident third country nationals (which the United Kingdom has chosen not to opt into) had had only one airing in the Council working group "whereas the restrictive measures appear to be moving ahead apace".⁷¹ Statewatch referred to "the incredibly negative and repressive tone of what comes out of the Council" compared with the Commission's more balanced approach; and drew attention to the absence of any reference to protecting victims of trafficking in the Council Action Plan.⁷² It is important to ensure that the Community institutions adopt a genuinely balanced approach and do not simply pay lip service to positive measures relating to, for example, legal immigration and co-operation with countries of origin. **We welcome the more positive approach towards countries of origin that prevailed at Seville, but the EU must make a reality of the positive elements of a common policy: they must not simply remain empty aspirations.**

⁷⁰ There is a detailed commentary on the proposed Council Directive on short-term residence permits for victims of trafficking in the evidence submitted by Anti-Slavery International (pp133–136).

⁷¹ Q 130.

⁷² Q 68.

PART 4: COMMISSION COMMUNICATION—SPECIFIC PROPOSALS

VISA POLICY

Common visa list

57. Visa policy within the EU is already relatively well-developed, in particular following the adoption in March 2001 of a common visa list, which classified all third countries as either visa-requiring or non visa-requiring.⁷³ The United Kingdom decided not to opt into this measure despite its participation in an earlier version (which had allowed a degree of national variation). We recognise that there are some, mainly Commonwealth, countries on which the United Kingdom would not wish to impose a visa regime at the present time⁷⁴ and that there is inevitably a loss of national discretion in adopting the common visa list.⁷⁵ However, overall we believe that it is unfortunate that the United Kingdom has not opted into this measure, given the increasing need for common immigration and asylum policies and the Government's stated commitment to them. Lord Filkin explained the Government's position as follows, "Clearly, on the common visa list we would not agree universally with every element of it and therefore it would not be in our interests to participate".⁷⁶ We found this a surprising statement, which takes a very narrow view of the United Kingdom's interests. If applied generally, it would rule out participation in any initiative with which the United Kingdom was not in total agreement, whereas it is inherent in membership of the EU that there has to be an element of give and take in order to secure agreement between the 15 Member States.

58. We asked all our witnesses from the Community institutions and other Member States about the effect of the United Kingdom's decision not to opt in to this aspect of visa policy. None of them claimed that it seriously inhibited co-operation at present, but they all regretted the United Kingdom's lack of participation in this important area of policy. Dr den Boer pointed to the United Kingdom's "uneven participation" in opting into only the repressive measures.⁷⁷ Dr Pastore said,

"from the purely technical point of view, this opt-out would not cause major problems even if it was applied systematically and persistently. But certainly in certain areas my personal view is that the whole evolution of a common migration policy—not just a policy against illegal immigration—would be weakened by the persistent and systematic opt-out of the British Government and this I think would be a pity."⁷⁸

The Commission pointed out that the United Kingdom's non-participation in the common visa list disadvantaged tourists who wished to visit both the United Kingdom and Schengen countries since it was necessary for them to apply for separate visas. Mr Borchardt, a Director in the Justice and Home Affairs Directorate, said that, "it would be certainly in the interests of the United Kingdom to be part of that policy".⁷⁹ Dr Lehnguth summed up Germany's view of the United Kingdom's position more generally as follows:

"As far as illegal immigration is concerned, I have to say that we do not regard the British opt-out as an obstacle. We can still work together as if you were involved in all other areas too but we would have liked overall co-operation; we think this would be a better unified approach to a common European policy".⁸⁰

59. Of our United Kingdom witnesses, Detective Inspector Hallam Howard, of the National Crime Squad, saw a strong case for the standardisation of visa requirements for

⁷³ Council Regulation (EC) No 539/2001.

⁷⁴ The Commonwealth countries on the common visa list that are not subject to a United Kingdom visa requirement are predominantly those in Southern Africa and the Caribbean.

⁷⁵ In its evidence the Immigration Advisory Service argued that the extension of a visa requirement to more countries would jeopardise the United Kingdom's unique links with Commonwealth countries (p 89).

⁷⁶ Q 322.

⁷⁷ Q 278.

⁷⁸ Q 93.

⁷⁹ Q 151.

⁸⁰ Q 372.

control reasons.⁸¹ Dr David Coleman,⁸² on the other hand, pointed out that participation in the common list “might cause problems if some EU member states were unwilling to impose restrictions on countries from which they were not under pressure or with which they had traditional links.”⁸³ However, this is unlikely to present a significant problem for the United Kingdom at present as its visa list contains very few countries that are not on the EU list. Mr Steve Peers, of Statewatch, argued that the extent to which the United Kingdom becomes involved in visa policy at EU level should be dependent on the extent to which it is involved in the more positive aspects of the Schengen rules. He argued out that the United Kingdom’s “à la carte” approach was already causing difficulties in this area, citing the proposed readmission agreements with Hong Kong and Macao. He noted that the United Kingdom wished to participate in these agreements without opting into the visa regulation, which lifts the visa requirement from those countries—a position that Macao was resisting in the negotiations.⁸⁴

60. Under the Treaty of Amsterdam the United Kingdom has a choice whether to opt into measures relating to immigration negotiated under Title IV of the Treaty on European Union. In our report on *A Community Immigration Policy* we pointed out that “it was inevitable that the United Kingdom’s influence on the negotiation of those Title IV measures that it has decided not to opt into will be much reduced”.⁸⁵ We also questioned the Government’s ability in the long term to maintain the United Kingdom’s independent admission policy.⁸⁶ We remain of that view.

61. We recommend that the Government review their position on the common visa list. To continue not to participate in it is likely to make whole-hearted participation in other aspects of visa policy, and more generally in a common immigration policy, increasingly difficult.

Joint visa issuing posts

62. The Commission’s proposals for improved security of the common format visa and for uniform visa issuing standards are welcome. The Commission also proposes a pilot project to test the feasibility of joint visa issuing posts. It draws attention to the legal, financial and psychological difficulties that may arise and proposes a step by step approach to the establishment of such posts. We acknowledge that the practical difficulties identified by the Commission are real. But the common visa list and uniform standards for visa issuing point logically in the longer term to the establishment of joint posts, in the interests both of consistency of practice and of pooling expertise and expenditure. It would be a pity if, as a result of its decision not to opt in to the common visa list, the United Kingdom were unable to participate in these developments. Both the Home Office and the Foreign and Commonwealth Office told us that they supported the proposal to establish pilot common consular offices (in Pristina and Kaliningrad) and would be interested in sharing consular accommodation in future locations.⁸⁷ But, if the United Kingdom were still maintaining separate visa issuing facilities, that would be little more than an extension of the existing practice of sharing diplomatic accommodation (with Germany in Lima and Quito, for example). **We endorse the proposal to establish a pilot project as a means of resolving the practical difficulties before embarking on a wider programme of joint visa issuing posts.**

63. The Communication’s most significant new proposal relating to visas is for a feasibility study of a European Visa Identification System.⁸⁸ This proposal, designed in part as an anti-terrorist measure following the events of 11 September 2001, would consist of a database of visas issued. It would provide an on-line facility to check the details of visa issues, possibly including an electronic photograph, which could be

⁸¹ Q 50.

⁸² Reader in Demography, University of Oxford.

⁸³ p 143.

⁸⁴ Q 77.

⁸⁵ HL Paper 64, paragraph 128.

⁸⁶ *Op cit*, paragraph 130.

⁸⁷ pp 15, 97.

⁸⁸ Communication, pp 13–14.

accessed even when the passport (containing the visa sticker) was not available. The Government told us that they welcomed the feasibility study into this proposal.⁸⁹

64. We are satisfied that there is a good case on security grounds for a feasibility study of a European Visa Identification System, but it will be essential to ensure that the data is accurate and the data protection safeguards robust. We also see advantage in principle in the United Kingdom participating in the system if it is decided to go ahead with it. But to do so would be difficult to justify if the Government were not prepared to opt into other aspects of visa policy.

INFRASTRUCTURE FOR INFORMATION EXCHANGE, CO-OPERATION AND CO-ORDINATION

65. At EU no less than at national level sound policy-making requires adequate information on the nature and the extent of the problems that need to be addressed. At present, information about overall patterns of illegal immigration, reasons for migration and likely future trends of immigration across the EU is fragmentary. It is based on widely differing national systems of statistics and estimating. Existing structures like CIREFI⁹⁰ have proved useful but not fully adequate. The lack of information that we have found in this inquiry about the incidence and nature of illegal immigration shows the need for much better data as a basis for sound policy-making in the immigration area.

66. We welcome the Commission's plans for improving data collection on asylum and immigration and, in particular, the proposal to establish a European Migration Observatory for monitoring and analysing migratory flows. We regret that the Council Action Plan of February 2002 refers only vaguely to a feasibility study on the potential creation of a not further defined "system for exchanging information" and recommend that the Government support the establishment of an Observatory. Such an institution should also have an outward-facing role, for example in providing better information in source countries on legal migration routes to reduce recourse to illegal immigration.

BORDER MANAGEMENT

67. The proposal for a European Border Guard is of major importance, especially in the context of enlargement. The Commission is not proposing the immediate establishment of a European Border Guard, but in the first instance the elaboration of a harmonised curriculum and the harmonisation of training, that might form the basis for a European Border Guard School. As mentioned above,⁹¹ on 7 May the Commission brought forward a further Communication on the management of the external borders of the European Union. At Seville the European Council gave a strong push to the idea of a European Border Guard. It warmly welcomed both the further Communication from the Commission and a separate feasibility study led by the Italian government concerning the establishment of a "European border police force"; and it called for a number of practical measures to be put in place before June 2003, including a Commission study of burden-sharing between Member States and the Union.

68. The proposals raise several important issues both for the EU and specifically for the United Kingdom. For the EU these include the sensitivity of Member States', notably German, border guards operating on the external frontiers of the new Member States; the constitutional relationship between the European Border Guard and national authorities; and the funding arrangements.

69. Here the Government will need to reconcile the apparent inconsistency between their support for moves *towards* a European Border Guard as enshrined in the Seville Conclusions and their stated opposition to a fully-fledged border police force.⁹² It will also need to consider the implications of its frontiers opt-out for its participation in these

⁸⁹ p 97.

⁹⁰ *Centre d'information, de réflexion et d'échange à l'égard des frontières extérieures et de l'immigration* (the Centre for information, discussion and exchange on external frontiers and immigration).

⁹¹ Paragraph 8.

⁹² In evidence to the Select Committee on 23 July on the Seville European Council, Mr Peter Hain, the then Minister for Europe said, "We do not favour a European Border Force. What we do favour, and what was really what Seville decided, was increasing operational co-operation with immigration officers, customs officers, police officers and so on, sharing intelligence..." (31st Report 2001-02, Q37).

measures, including an element of (financial) burden-sharing, which it has in the past resisted.

70. In view of the importance of this issue, the fact that it is the subject of the two further documents referred to above, and its significance for the United Kingdom, we have decided that it warrants a separate inquiry, which we propose to conduct early in the New Year.

POLICE CO-OPERATION

Europol

71. Europol has a crucial role in monitoring illegal immigration networks at the European level and undertaking threat and risk assessments of the involvement of organised crime. These can be of considerable importance for preventive action by national authorities. It also provides valuable support for joint investigations and operations of national forces in the fight against trafficking and smuggling of human beings, although we heard some criticism that Europol was not as effective as it should be.⁹³

72. We see advantage in a further strengthening of the role of Europol in the fight against illegal immigration, building on its current supportive functions. We welcome the Commission's proposals to enable Europol to ask the competent authorities of the Member States to conduct investigations and to develop specific expertise as regards trafficking and smuggling of human beings.⁹⁴ We also support the idea of Europol providing support for the collation and exchange of information by national law enforcement agencies on suspicious financial transactions related to these crimes.

73. To fulfil its monitoring and analysis functions in the fight against illegal immigration Europol's work depends vitally on the free flow of information from national authorities. Its output can only be as good as the information it receives. We regret that this information is apparently not always forthcoming from all national authorities. We are satisfied, however, that the National Criminal Intelligence Service (NCIS) and other British law enforcement authorities interact effectively with Europol. The Director of Europol told us that the United Kingdom was one of the three best contributors to and supporters of Europol.⁹⁵ **We call on the Government to step up efforts to ensure that Europol, while fully observing data protection safeguards, gets the necessary data from all competent national authorities within the EU and—as far as currently possible—also from the incoming Member States.**

74. "Eurojust" is a judicial co-operation unit, which was set up in response to one of the conclusions of the Tampere European Council in October 1999. Its primary function is to improve co-operation between national authorities in the investigation and prosecution of serious crime. A provisional unit was formally established by a decision of the Council of Ministers of 14 December 2000 and started work on 1 March 2001. The Council Decision establishing the unit proper entered into force on 6 March 2002.

75. Although Eurojust was not mentioned in the Commission's Communication, we believe that this new cross-border prosecution unit could and should also play a substantial role in combating illegal immigration by facilitating the effective prosecution of traffickers and smugglers in human beings across the territory of the EU. Mr Mike Kennedy, the British national member (and now President) of Eurojust told us that, although illegal immigration is a priority for Eurojust, it has not yet been able to devote much time to it.⁹⁶ **In our view it is essential that Eurojust be given a specific mandate in respect of serious immigration crime and that in this domain a close working relationship is established between Eurojust and Europol as well as specialised national prosecutors.**

⁹³ Some scepticism was expressed by Dr den Boer, for example, as to whether Europol had yet produced results commensurate with the increases in funding and personnel that it had received in recent years (Q 272).

⁹⁴ Utilising the provisions of Article 30 of the Treaty on European Union.

⁹⁵ Q 396.

⁹⁶ QQ 214–216.

Police action in the United Kingdom

76. The Immigration Crime Team was set up in January 2002. It is staffed jointly by the National Crime Squad and the Immigration Service, with one team (22 strong) based at Heathrow and another (17 strong) at Gatwick. Its priorities are to combat the smuggling of children and trafficking in vulnerable women. In its first three months of operation it achieved its target of disrupting ten criminal organisations involved in immigration crime. Members of the Sub-Committee undertaking the inquiry visited the Team in June. They were concerned to learn that its work was hampered by disparities between United Kingdom police forces in the priority they attach to serious immigration crime such as trafficking. Only the Metropolitan Police have a unit specialising in immigration crime; and we were told that some major urban forces do not consider that immigration crime should be regarded as a priority, compared with, for example, street crime. This was borne out by evidence from ACPO, which said that the police service had undertaken to assist with the return of immigration offenders but otherwise was unable to support to any significant degree the priorities set by the Government of combating illegal entry and working, people trafficking and fraud.⁹⁷ We were also told that there was scope for further developing co-operation with European counterparts, which had not been a priority in the past.

77. The view of both the National Crime Squad and the National Criminal Intelligence Service is that organised illegal immigration crime needs to be tackled in the same way as other forms of organised crime, such as drug smuggling, the former tending to be structurally more complex, consisting of a chain of organised crime groups as opposed to a single organisation for most Class A drug smuggling.⁹⁸ Several operations have indicated the scale of the problem of stolen identities, notably Operation Wisdom, which by means of a data-matching exercise identified over 1000 cases where passports, driving licences and national insurance numbers had been issued in the names of children who had died before the age of one. Lack of resources in the police forces concerned as a result of other priorities, not least the Street Crime Initiative, has prevented these findings being followed up until very recently. In a limited exercise in October 2002 warrants were issued in respect of a number of those involved and 39 arrests were made. At the time of our visit the Team was bidding for additional resources to bring it to a level roughly double its present size.

78. Identifying individual immigration offenders is primarily a matter for the Immigration Service and is not, nor should be, a police priority. But people-smuggling and trafficking in human beings are serious forms of organised crime. All United Kingdom police forces, particularly the large urban forces, need to give higher priority to these forms of illegal immigration, especially trafficking in women and children and the activities of organised crime groups involved in it. **We recommend that the large urban forces should establish specialised units for serious immigration crime; that the Immigration Crime Team should be strengthened; and that co-operation with counterparts in other Member States should be strengthened.**

Schengen Information System

79. The Schengen Information System (SIS) is a computerised database. Much of the data it contains relates to the entry of third country nationals into, and movement within, the Schengen area necessary to support the Schengen rules on the free movement of persons. But it also includes data relevant to policing and cross-border co-operation in criminal matters.⁹⁹ At present the United Kingdom has only limited access to the SIS because it is not a full member of Schengen. Because it does not participate in those parts of the Schengen *acquis* relating to immigration it does not have access to immigration data on individuals, which is governed by Article 96 of the Schengen Convention. Mr David Bolt, the Deputy Director of NCIS, told us that information about people stopped at entry to other European countries because of criminal convictions would be of benefit

⁹⁷ p 140.

⁹⁸ Q 40.

⁹⁹ The Committee reported on UK participation in the Schengen *acquis* in February 2000 (5th Report 1999–2000, HL Paper 34); and on the Schengen Information System in its report on *European Union Databases* (23rd Report 1998–99, HL Paper 120).

to UK law enforcement,¹⁰⁰ and the Director of Europol confirmed that it would be useful for the United Kingdom to have access to Article 96 data.¹⁰¹ The Home Office told us that they would be looking to gain access to it in the context of the redevelopment of the system (“SIS II”), but acknowledged that this would be a difficult negotiating position.¹⁰² **We see advantage in the United Kingdom having access to Article 96 data for law enforcement purposes, subject to effective data protection safeguards, but question whether the Schengen Members would agree as long as the United Kingdom is not prepared to sign up to the full Schengen *acquis* in the immigration area.**

ALIENS LAW AND CRIMINAL LAW

Carriers’ liability and employer sanctions

80. The Committee fully supports EU legislative action in the fight against trafficking and smuggling of human beings. It welcomes the priority given by the Seville European Council to early adoption of the Directive defining the facilitation of unauthorised entry, transit and residence and the accompanying Council Framework Decision on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence.¹⁰³ But we are not convinced by the Commission’s strong emphasis on the need for new legislative measures in the field of carriers’ liability. We received evidence objecting to carriers’ liability on grounds of both principle and effectiveness. It was argued by Dr Geddes that it amounted to a form of “privatisation” of immigration control, which was properly a matter for the State and not for carrying companies to undertake.¹⁰⁴ Mr Van Der Klaauw, representing UNHCR, expressed concern about its effect in preventing refugees from reaching a safe country.¹⁰⁵ Dr den Boer claimed that it had not been effective in preventing illegal immigration,¹⁰⁶ but Lord Filkin maintained that it had been very successful.¹⁰⁷ It clearly has not stopped illegal immigration, but in combination with a visa requirement it does represent a major obstacle to passengers without the proper documents; and there is clearly no prospect of Governments abandoning carriers’ liability provisions. **The Committee takes the view that, as substantial legislation is already in place (or soon will be) both at the national and the European level, this needs to be fully tested through implementation and enforcement before further legislation can be justified.**

81. As the only EU provision relating to illegal employment is a non-binding Council Recommendation of 27 September 1996,¹⁰⁸ the same objection to further legislative harmonisation does not apply in this area. Such a measure would ensure a more level playing field between the Member States and provide a mechanism for the application of uniform standards (through the normal enforcement machinery for Community legislation). But it would be very difficult to negotiate a significant degree of harmonisation in a reasonable period of time. All Member States have adopted national legislation against illegal employment, and in our view the current priority should be effective enforcement rather than Community legislation. The present scheme in the United Kingdom has been ineffective. In its White Paper *Secure Borders, Safe Haven*¹⁰⁹ the Government indicated their intention of making a number of, mainly administrative, changes to improve enforcement of the current scheme. A more radical proposal, with wider implications, is the idea of an “entitlement card” on which the Government is currently seeking views on the basis of a consultation paper, which it published on 3 July 2002.¹¹⁰

¹⁰⁰ Q 55.

¹⁰¹ Q 392.

¹⁰² Q 325.

¹⁰³ Council documents 10704/01 and 11015/01.

¹⁰⁴ Q 135.

¹⁰⁵ Q 306.

¹⁰⁶ Q 276.

¹⁰⁷ QQ 341–342.

¹⁰⁸ *Council Recommendation on combating the illegal employment of third country nationals* (Official Journal C 304, 14 October 1996, pp1–2).

¹⁰⁹ CM 5387, February 2002.

¹¹⁰ *Entitlement Cards and Identity Fraud*, CM 5557.

82. This is an important issue, as the absence of effective enforcement of measures against illegal employment constitutes a powerful “pull factor” for illegal immigration, on which traffickers and smugglers capitalise. But it needs to be addressed in the broader context of labour market policy, to which we referred in Part 2. If there were a realistic immigration policy in place that met employers’ needs for semi-skilled and unskilled labour, there would be a strong justification for tough restrictions on illegal employment, both to protect the legal labour market and to act as a disincentive to illegal immigration. **The Committee recommends that the Government adopt an integrated approach to tackling illegal employment and give more attention to effective enforcement of the current scheme of employer sanctions. Given the existence of national provisions on illegal employment, legislation at the European level should not be a high priority.**

“Regularisations”

83. One of the principles underlying the Communication is that illegal immigration should never lead to a person’s being allowed to stay legally. That is clearly undesirable in principle: allowing people to stay who have no claim to do so undermines a country’s legal immigration policy; and mass regularisations act as a powerful “pull factor”. But in practice some means of regularising the status of those who do not qualify to stay but whom there is no prospect of removing is unavoidable.

84. In Southern European countries illegal immigrants help the economy, but the authorities need to make them legal, partly in order to be able to collect their national insurance and tax contributions. This is necessary both to sustain pension systems under threat from ageing populations and to prevent the perception of their cheap labour costing (or appearing to cost) jobs to low-paid nationals. This has led to large-scale regularisation exercises at regular intervals.¹¹¹

85. No EU country is able to remove every illegal immigrant. In the United Kingdom the main focus of attention is on failed asylum seekers, who represent only one category of illegal immigrants. The Government has abandoned its target of removing 30,000 failed asylum seekers a year as impracticable. The current rate of removal of around 12,000 a year means that only a small proportion of failed asylum seekers is being removed. It is not acceptable to leave such people “in limbo” indefinitely.

86. Some form of regularisation is unavoidable if a growing underclass of people in an irregular situation, who are vulnerable to exploitation, is not to be created. It is in the interests of society as a whole that long-term residents should not remain in an irregular position, but should pay their taxes and National Insurance contributions as well as have proper access to public services. Any such regularisation needs to be handled very carefully to minimise the “pull factor”. It may be preferable to deal with cases on an individual basis rather than on the basis of a large-scale amnesty. However, if any form of amnesty is introduced, it should be monitored carefully, since it is likely to provide a rare opportunity to obtain reliable information on the size and nature of the illegal immigrant population.

RETURN AND READMISSION POLICY AND THE EXTERNAL DIMENSION

87. Working with third countries, both source and transit countries, is an essential dimension of the fight against illegal immigration. This is not just a matter of ensuring that they take back their own nationals promptly, important though that is. Third countries need help to reduce the “push factors” and to establish effective systems themselves for controlling migration.

88. Action in third countries should be an integral part of a common EU policy on illegal immigration. Indeed the most attractive approach to the problems of illegal immigration would be preventive action at source. It is sometimes suggested that this could be achieved through economic aid to reduce the economic “push factors”. This is probably unrealistic: development assistance is unlikely to be on a sufficient scale to make a significant difference to the disparities between rich and poor countries.¹¹²

¹¹¹ See paragraph 24 for figures for Italy.

¹¹² As Mr Don Flynn, of the Joint Council for the Welfare of Immigrants, pointed out, economic development is unlikely in the short term to lead to a reduction in migration pressures (Q 74). Dr David Coleman also cited evidence that overseas aid

89. However, many illegal immigration issues can be effectively tackled only in close co-operation with the countries of origin and transit. The Committee fully supports the Communication's suggestions on providing support to countries of origin in the fight against trafficking and smuggling of human beings and to fulfil their readmission obligations. It is in favour of using the Community budget for funding projects on the transfer of expertise through meetings and training seminars, the return of illegal immigrants, the improvement of border control equipment and document security, the deployment of EU liaison officers and awareness raising campaigns. In this context countries of origin should be treated as full partners. A sound understanding of the situation in countries of origin and of the development of migratory flows in these countries is of central importance for such partnership relations, which highlights again the need for adequate information and analysis (see paragraphs 65–66 above).

90. We referred in paragraph 7 to the debate in the run-up to the Seville Council about whether it was justified to make aid to third countries in any way dependent on co-operation on immigration, particularly in respect of a country taking back its own nationals. The Department for International Development told us categorically that it would be illegal to use development aid other than for the relief of poverty.¹¹³ We accept that it would be wrong to use development aid as a lever against countries which do not co-operate on illegal immigration. On the other hand, it is desirable that EU co-operation with a third country on immigration matters should be set within the EU's overall external relations with it, and in that context it is not unreasonable to use the economic and financial instruments of the EU for the purpose of reducing illegal immigration pressures. As a last resort we would not see objection to making concessions on trade for example dependent on co-operation in the fight against illegal immigration, especially as regards action against traffickers and smugglers. **Third countries should be made aware that effective co-operation in the fight against illegal immigration into the EU is an increasingly important issue in its external relations. However, neither EU humanitarian aid nor core areas of development policy action should be made conditional upon co-operation on illegal immigration issues.**

91. The Commission's Green Paper on a Community return policy on illegal residents adopts a balanced approach to the problem with a mixture of co-operation with sending countries and measures to ensure that returns can be effected expeditiously. The Committee endorses its general thrust. In particular we welcome the priority it attaches to encouraging voluntary returns wherever possible in preference to compulsory returns and its ideas for developing incentives for returnees who are prepared to return voluntarily. We note, however, that many of the residents at Sangatte were from Iraqi Kurdistan, and that it would clearly not be feasible to negotiate their return (if any asylum claims they made were unsuccessful) with the present Government in Baghdad.

92. We also see considerable scope for adopting a common approach to returns. In the longer term there may be a case for pursuing the idea of mutual recognition of return decisions, but that is unlikely to be achievable at present. A more practicable objective would be for Member States to take greater responsibility for returning illegal immigrants to their countries of origin rather than moving them round the EU. At present there is a general assumption that, if an illegal immigrant is to be removed, he or she should, if possible, be returned to the country of their last embarkation rather than their country of origin. (This is also the premise underlying the Dublin Convention in relation to determining which Member State is responsible for considering an asylum application.) There are many situations where this will be appropriate and unavoidable; and it is, of course, much cheaper and less trouble for the country which apprehends the illegal immigrant. But seeking to pass a person back from country to country along the route they travelled is an inherently unsatisfactory process for all those involved. It is an inhumane procedure for the person concerned; it generates a lot of, often nugatory, work in trying to apportion responsibility between the different countries through which the person passed; it may be seen as unfair to expect transit countries to accept responsibility for everyone who happens to have transited their country; and, not least, it is likely to be wholly ineffective to transfer people within the EU, or at least within the Schengen area when there is no physical obstacle in the form of border controls to stop them from returning. The basis of a truly common policy would be that **the Member States have a**

is likely to "increase migration flow from sending countries in the short run and may only reduce it in the long term" (p 142).

¹¹³ pp 146–147.

common interest in securing the removal of illegal immigrants, not just from the country where they happen to be when detected but from the territory of the Union as a whole. The Committee believes that this approach to the removal of illegal immigrants should be further explored. It would be necessary to find a fair way of apportioning the costs to ensure that a disproportionate burden did not fall on the countries where most illegal immigrants happened to be found, but we do not believe that the practical difficulties would be insuperable.

93. Readmission agreements are an important element of an effective policy on illegal immigration, which is frustrated if a person identified as an illegal immigrant cannot be returned to his or her own country. As explained above, the Committee believes that arrangements of this kind should not focus solely on the penalties that might be applied to countries of origin but should also identify incentives that will encourage third countries to co-operate. Dr Pastore told us that the Italian experience was that the most effective agreements were those inserted in “more complex migration management partnerships”, which involved some element of development assistance and of privileged access to the labour market, as opposed to those imposed by diplomatic strength, which tended to remain largely on paper. As he put it, “To convince countries to accept back their own nationals or third country nationals you have to persuade them, not to impose it”.¹¹⁴ Dr Sciortino confirmed that the Italian experience showed that readmission agreements work much better where they are “matched by the establishment of effective channels of legal entries”.¹¹⁵ This is a persuasive analysis and **the Committee strongly endorses the view that readmission agreements need to be set in a wider migration management context.**

94. Although there may be situations where bilateral agreements are appropriate—and Lord Filkin told us that the Government would not want to give up the scope for having them¹¹⁶—as a general rule multilateral agreements involving the whole Union are likely to be more effective. They are more consistent with a genuinely common policy; they will carry more weight than bilateral agreements; and it will be more economical for all the parties concerned to negotiate them multilaterally. The Member States as a group are in a much better position than individual Member States to get third countries to agree to readmission clauses and to deliver appropriate trade and co-operation concessions in return. **If a readmission agreement is desirable, it should normally be a Community instrument.**

¹¹⁴ Q 109.

¹¹⁵ p 106.

¹¹⁶ Q 320.

PART 5: SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

95. We welcome the steps the Government have taken to increase the opportunities for legal employment for people from abroad. However, more could and should be done across the EU to increase the opportunities for legal immigration in order to meet identified labour shortages. Although clearly not the whole answer, it might significantly reduce the “pull factor” and could be economically beneficial. If legitimate ways for foreign workers to enter the labour market were increased and accelerated, governments would have no justification for turning a blind eye to illegal working and would have an incentive to crack down on it more effectively (paragraph 36).

96. Illegal immigration poses a serious problem to almost all the Member States and to the EU as a whole. Trafficking in human beings is a particularly pernicious crime and the involvement of organised crime in people-smuggling is a matter of serious concern. Despite its possibly positive economic effects, illegal immigration cannot be viewed with equanimity: any significant level of illegal immigration undermines the whole structure of legal migration and places increasing strain on a country’s social acceptance of immigrants (paragraph 46).

97. Governments need to manage migration in a way that controls illegal immigration effectively. But in doing so they must not forget that they are dealing with people, most of whom are motivated simply by a desire for a better life for themselves and their families; and in devising measures to control illegal immigration they must ensure that they scrupulously observe their human rights obligations (paragraph 47).

98. We welcome the research that the Home Office is currently undertaking on the scale and nature of illegal immigration and recommend that it should be pursued energetically. Attention should be given to producing a reliable estimate of overstaying (paragraph 48).

99. It is disappointing that the Government, while enthusiastically endorsing measures designed to improve the enforcement of immigration controls, have consistently chosen not to opt into positive immigration measures, such as those relating to admission for employment and self-employment; family reunion; and protection for the victims of trafficking. A truly common policy needs to embrace both positive and enforcement elements and the Committee believes that United Kingdom interests would be better served by such an approach (paragraph 54).

100. We welcome the more positive approach towards countries of origin that prevailed at Seville, but the EU must make a reality of the positive elements of a common policy; they must not simply remain empty aspirations (paragraph 56).

101. We recommend that the Government review their position on the common visa list. To continue not to participate in it is likely to make whole-hearted participation in other aspects of visa policy, and more generally in a common immigration policy, increasingly difficult (paragraph 61).

102. We endorse the proposal to establish a pilot project as a means of resolving the practical difficulties before embarking on a wider programme of joint visa issuing posts (paragraph 62).

103. We are satisfied that there is a good case on security grounds for a feasibility study of a European Visa Identification System but it will be essential to ensure that the data is accurate and the data protection safeguards robust. We also see advantage in principle in the United Kingdom participating in the system if it is decided to go ahead with it. But to do so would be difficult to justify if the Government were not prepared to opt into other aspects of visa policy (paragraph 64).

104. We welcome the Commission’s plans for improving data collection on asylum and immigration and, in particular, the proposal to establish a European Migration Observatory for monitoring and analysing migratory flows. We regret that the Council Action Plan of February 2002 refers only vaguely to a feasibility study on the potential creation of a not further defined “system for exchanging information” and recommend that the Government support the establishment of an Observatory. Such an institution should also have an outward-facing role, for example in providing better information in source countries on legal migration routes to reduce recourse to illegal immigration (paragraph 66).

105. We see advantage in a further strengthening of the role of Europol in the fight against illegal immigration, building on its current supportive functions. We welcome the Commission's proposals to enable Europol to ask the competent authorities of the Member States to conduct investigations and to develop specific expertise as regards trafficking or smuggling of human beings. We also support the idea of Europol providing support for the collation and exchange of information by national law enforcement agencies on suspicious financial transactions related to these crimes (paragraph 72).

106. We call on the Government to step up efforts to ensure that Europol gets the necessary data from all competent national authorities within the EU and—as far as currently possible—also from the incoming Member States (paragraph 73).

107. It is essential that Eurojust is given a specific mandate in respect of serious immigration crime and that in this domain a close working relationship is established between Eurojust and Europol as well as specialised national prosecutors (paragraph 75).

108. The large urban forces should establish specialised units for serious immigration crime; the Immigration Crime Team should be strengthened; and co-operation with counterparts in other Member States should be strengthened (paragraph 78).

109. We see advantage in the United Kingdom having access to data collected under Article 96 of the Schengen Information System Convention, for law enforcement purposes, subject to effective data protection safeguards, but question whether the Schengen Members would agree as long as the United Kingdom is not prepared to sign up to the full Schengen *acquis* in the immigration area (paragraph 79).

110. As substantial legislation on carriers' liability is already in place (or soon will be) at both the national and the European level, this needs to be fully tested through implementation and enforcement before further legislation can be justified (paragraph 80).

111. The Committee recommends that the Government adopt an integrated approach to illegal working and give more attention to effective enforcement of the current scheme of employer sanctions. Given the existence of national provisions on illegal employment, legislation at the European level should not be a high priority (paragraph 82).

112. Some form of regularisation of long term illegal immigrants is unavoidable if a growing underclass of people in an irregular situation, who are vulnerable to exploitation, is not to be created. It is in the interests of society as a whole that long-term residents should not remain in an irregular position, but should pay their taxes and National Insurance contributions as well as have proper access to public services. Any such regularisation needs to be handled very carefully to minimise the "pull factor". It may be preferable to deal with cases on an individual basis rather than on the basis of a large-scale amnesty. However, if any form of amnesty is introduced, it should be monitored carefully, since it is likely to provide a rare opportunity to obtain reliable information on the size and nature of the illegal immigrant population (paragraph 86).

113. Working with third countries, both source and transit countries, is an essential dimension of the fight against illegal immigration. This is not just a matter of ensuring that they take back their own nationals promptly, important though that is. Third countries need help to reduce the "push factors" and to establish effective systems themselves for controlling migration (paragraph 87).

114. Third countries should be made aware that effective co-operation in the fight against illegal immigration into the EU is an increasingly important issue in its external relations. However, neither EU humanitarian aid nor core areas of development policy should be made conditional upon co-operation on illegal immigration issues (paragraph 90).

115. The basis of a truly common policy on returns would be that the Member States have a common interest in securing the removal of illegal immigrants, not just from the country where they happen to be when detected but from the territory of the Union as a whole. The Committee believes that this approach to the removal of illegal immigrants should be further explored. It would be necessary to find a fair way of apportioning the costs to ensure that a disproportionate burden did not fall on the countries where most illegal immigrants happened to be found, but we do not believe that the practical difficulties would be insuperable (paragraph 92).

116. The Committee strongly endorses the view that readmission agreements need to be set in a wider migration management context. If a readmission agreement is desirable, it should normally be a Community instrument (paragraphs 93 and 94).

RECOMMENDATION

117. The Commission Communication on a Common Policy on Illegal Immigration raises important questions of policy to which the attention of the House should be drawn, and the Committee therefore recommends this report for debate.

APPENDIX 1

*Minutes of Proceedings on the Report***Wednesday, 30 October 2002**

Present:

B. Gibson of Market Rasen
 L. Greaves
 B. Greengross
 L. Griffiths of Fforestfach
 B. Harris of Richmond (Chairman)
 L. King of West Bromwich
 B. Knight of Collingtree
 B. Whitaker
 L. Wright of Richmond

The Committee considered the draft Report.

Paragraphs 1–50 were agreed to, with amendments.

It was moved by Lord Griffiths of Fforestfach to leave out paragraph 51 (now 54)
 The Committee divided:

Contents

Lord Griffiths of Fforestfach
 Baroness Knight of Collingtree

Not-contents

Baroness Gibson of Market Rasen
 Lord Greaves
 Baroness Harris of Richmond (Chairman)
 Lord King of West Bromwich
 Baroness Whitaker
 Lord Wright of Richmond

The amendment was disagreed to accordingly.

Paragraph 52 was agreed to.

It was moved by Lord Griffiths of Fforestfach to leave out the last sentence of paragraph 53 (now 56).

The Committee divided:

Contents

Lord Griffiths of Fforestfach
 Baroness Knight of Collingtree

Not-contents

Baroness Gibson of Market Rasen
 Lord Greaves
 Baroness Greengross
 Baroness Harris of Richmond (Chairman)
 Lord King of West Bromwich
 Baroness Whitaker
 Lord Wright of Richmond

The amendment was disagreed to accordingly.

Paragraphs 54–57 were agreed.

It was moved by Lord Griffiths of Fforestfach to leave out paragraph 58 (now 61).
The Committee divided:

Contents

Lord Griffiths of Fforestfach
Baroness Knight of Collingtree

Not-contents

Baroness Gibson of Market Rasen
Lord Greaves
Baroness Greengross
Baroness Harris of Richmond (Chairman)
Lord King of West Bromwich
Baroness Whitaker
Lord Wright of Richmond

The amendment was disagreed to accordingly.

Paragraphs 59–100 were agreed to, with amendments.

The Appendices were agreed to.

APPENDIX 2

Sub-Committee F (Social Affairs, Education and Home Affairs)

Baroness Gibson of Market Rasen
Lord Greaves
Baroness Greengross
Lord Griffiths of Fforestfach
Baroness Harris of Richmond (Chairman)
Lord King of West Bromwich
Baroness Knight of Collingtree
Baroness Stern
Baroness Whitaker
Lord Wright of Richmond
*Baroness Young

* Baroness Young died on 6 September 2002

Professor Jörg Monar, Co-Director of the Sussex European Institute, University of Sussex, was appointed as Specialist Adviser for the inquiry

Declared interests in connection with this inquiry:**Baroness Gibson of Market Rasen**

Former Member, TUC General Council

Baroness Greengross

Consultant/Adviser, European Movement
Vice-Chair, Britain in Europe

Lord Griffiths of Fforestfach

Director, EWS Railway

Baroness Harris of Richmond

Former Member, NCS Service Authority
Former Member, Police Negotiating Board

Lord King of West Bromwich

Member, Committee of the Regions and its external relations commission
Member, Sandwell Metropolitan Borough Council

Baroness Stern

Secretary-General, Prison Reform International

Baroness Whitaker

Patron, Runnymede Trust

Lord Wright of Richmond

Former Permanent Under-Secretary of State, Foreign and Commonwealth Office
Consultant, De La Rue

APPENDIX 3

List of witnesses

The following witnesses gave evidence. Those marked * gave oral evidence.

- Anti-Slavery International
- Association of Chief Police Officers (ACPO)
- Dr David Coleman
- Department for International Development (DFID)
- * Eurojust
- * European Commission, Directorate-General Justice and Home Affairs
- * European Institute for Law Enforcement Co-operation (EULEC)
- * Europol
- * Foreign & Commonwealth Office
- * Dr Andrew Geddes
- * Professor Elspeth Guild
- Home Office Detention Services Policy Unit
- * Home Office Immigration and Nationality Directorate
- Immigration Advisory Service
- Immigration Law Practitioners' Association
- * Joint Council for the Welfare of Immigrants (JCWI)
- * Dr Gerold Lehnguth, German Ministry of the Interior
- Migration Watch UK
- * National Crime Squad
- * National Criminal Intelligence Service
- * Dr Ferruccio Pastore, Centro Studi di Politica Internazionale (CESPI), Rome
- Matloob Piracha and Professor Roger Vickerman, Department of Economics,
University of Kent
- Rail Freight Group
- Dr Giuseppe Sciortino
- * Statewatch
- * United Nations High Commissioner for Refugees (UNHCR)

APPENDIX 4

Call for evidence

Sub-Committee F (Social Affairs, Education and Home Affairs) of the House of Lords Select Committee on the European Union is conducting an inquiry into illegal immigration. The basis of the inquiry is a Communication from the European Commission on a common policy on illegal immigration: *Commission Communication to the Council and the European Parliament on a Common Policy on illegal immigration (document 14239/01 Visa 135)*.¹¹⁷ Evidence is invited on all aspects of the Communication.

The Communication identifies six areas for possible actions:

Visa policy: including the adoption of common visa lists, uniform visa and security standards, the creation of common administrative structures on the issuing of visas and the development of a European Visa Identification System.

Infrastructure for information exchange, co-operation and co-ordination: including the collection of statistics on illegal immigration, the gathering of information, intelligence and analysis, including the creation of a European Migration Observatory, and the development of an Early Warning System for the transmission of information on illegal immigration and facilitator networks.

Border management: including pre-frontier measures, such as the posting of liaison officers in countries of transit and origin, financial support of actions in third countries, and campaigns to raise awareness in the countries of origin; and a harmonised curriculum and common training for border guards leading eventually to the development of a European Border Guard.

Police co-operation: including the improvement of co-operation and co-ordination at the operational level and enhancing the role of Europol with more operative powers to enable it to work with national authorities to combat human trafficking and smuggling of human beings.

Aliens law and criminal law: including the criminalisation of human trafficking and smuggling, targeting the proceeds generated from these activities and imposing sanctions on carriers and employers of illegal immigrants.

Return and readmission policy: including the development of common principles (such as the priority of voluntary return over forced return) and common standards on expulsion, detention and deportation.

¹¹⁷ Available on the Commission's web-site: www.europa.eu.int

The Sub-Committee wishes to examine these issues broadly within their overall global context.

The questions on which it would particularly welcome comments include the following:

- (i) What are the economic effects of illegal immigration?
- (ii) Is the Commission right in its assumption that illegal immigration has a serious internal security dimension?
- (iii) Can EU co-operation with, and assistance to, third countries make a significant contribution to reducing illegal immigration?
- (iv) Is there a need for further harmonisation of penal and financial sanctions for activities linked to illegal immigration?
- (v) Should the UK Government participate in the new visa policy measures proposed?
- (vi) Are standardisation of external border controls—and eventually a common European Border Guard—an effective means of reducing illegal immigration?
- (vii) Should a “single technical support agency” be established for operational co-operation against illegal immigration?
- (viii) Does Europol’s role need to be extended to enable it to operate more effectively against illegal immigration?
- (ix) How important are EU readmission arrangements with third countries for the reduction of illegal immigration. Is harmonisation of return procedures necessary for an effective EU policy on readmission?

APPENDIX 5

Note of Visit to Calais and Sangatte—Tuesday 25 June 2002

I. Mr Bill Dix, Deputy Managing Director, Eurotunnel and Managing Director, Shuttle Services

1. Mr Dix said that at the beginning of 2001 there were daily invasions of the terminals, with 60–70 asylum-seekers arriving each day, mainly on the freight trains. In the whole of 2001 54,000 people “attacked” the terminal and 5,000 got through. Ten people had died in the attempt. With advice from Sir Roger Wheeler, the former Chief of the General Staff, Eurotunnel had put in place major improvements in security, notably the installation of 30 kms of high security fencing and 350 additional security guards. The capital cost of the fencing and CCTV cameras was £3m and the annual cost of the additional security guards £3m+.

2. The freight terminal at Fréthun was now the main focus of attention. The freight trains were vulnerable because they had to change locomotives at Fréthun; the car transporters, which were open, were particularly easy to target. At present only about three freight trains were running each day out of a normal complement of 25. SNCF were in the process of putting in place the sort of measures that Eurotunnel had taken, but it was said that the work would not be completed until the end of November.

3. Mr Dix made a number of suggestions for addressing the problems caused by Sangatte, which was attracting between 60 and 70 new arrivals each day:

- break up Sangatte into three or four smaller centres and move them further away from the terminals
- improve security
- allow asylum-seekers to apply *in Sangatte* for asylum in the UK
- re-introduce the “gentlemen’s agreement” that operated between France and the UK in 1995–1996
- put British police in France (on the same basis that Eurotunnel paid for services from the Kent police in the UK).

II. M. Cyrille Schott, Préfet for Pas-de Calais

4. M. Schott, who was supported by members of the Gendarmerie, the Police and other state agencies, emphasised at the outset that France was doing all it could to stop the asylum-seekers going to the UK, but it was not possible to send many of them back to their own countries (90 per cent came from Afghanistan and Iraq) and with 30 million passengers crossing the Channel each year it was impossible to stop all of them.

5. There were three separate sites that were targeted by the asylum-seekers: industrial estates, but security had been tightened up considerably

Calais Port: this was now well protected as a result of the efforts of the Chamber of Commerce, and extra police had also been drafted in. The main problems were outside the Eurotunnel terminal: this was a difficult site to protect as it was surrounded by the Port: on the motorways and with trains being stopped at St Omer and Dunkirk the freight terminal at Fréthun, which was managed by SNCF: a major upgrade of security was in hand, at a cost of €m7.5. The fencing would be finished by the end of July and a surveillance camera system installed by the autumn. Staffing had been

increased and the Préfet had obtained 80 additional gendarmes, to be followed by a further 30.

6. The CRS and the police were deployed at the Eurotunnel terminal and Calais Port in addition to 300 border police, 300 customs officers (and 200 police in Calais itself).

7. Despite all these measures the pressure was increasing as shown by the rising number of arrests:

Year	No. of arrests
1999	8,000
2000	25,000
2001	80,000
2002 (first six months)	56,000

368 had been arrested the previous night.

8. Priority was given to targeting the “*passeurs*” (people-smugglers). So far in 2002 130 had been arrested (of whom one third were British) and severely dealt with. There had been two murders among the *passeurs*. The Centre at Sangatte, was not itself the problem but “*l’expression du problème*”. It had opened in 1999 mainly to accommodate Kosovan asylum seekers, but since then the population had changed significantly. The population varied from 1,100 to 1,500. Since the beginning of the year 350 had been sent back to “safe” countries. The closure of Sangatte was an objective but not an immediate option until the underlying causes of its existence had been addressed, which required the harmonisation of asylum laws with other EU countries. At present the United Kingdom was simply too attractive, providing hotel accommodation, money and work opportunities for asylum seekers. France did not give asylum seekers money, which was probably the most significant difference between the British and French systems. Fewer than five per cent of those picked up by the police applied for asylum in France. They knew that once they had applied for asylum in France they could not apply in the United Kingdom. Some did so only because they did not have the money for the crossing.

9. The French Government was taking action on a number of fronts:

- putting pressure on SNCF to improve security at Fréthun
- improving security at Arras and in the nearby villages
- taking action against the *passeurs*
- asking SNCF to limit the period during which they sent freight trains through the Tunnel, initially from 7 p.m to 3 a.m. and then from 2 p.m. to 3 a.m.

10. But action was also needed on the British side:

- increasing the presence of the UK Immigration Service, of whom at present there were only 134
- reacting more strongly to intelligence about *passeurs* (co-operation between the police was good and improving, but on occasion the French had been disappointed that the British had not taken stronger action on the information they had given them)
- more co-operation between prosecutors.

III. Visit to the Centre

The Sub-Committee was accompanied by the Director of the Centre, M. Michel Derr and his assistant.

11. Noteworthy points arising from the briefing and the visit itself included the following:

- the population of the Centre was 1,200. The Director would like to reduce it to 900
- there were about 50–60 children under 12 in the Centre
- since September 2001 the average age had reduced considerably
- there were 85 paid employees at the Centre
- the services provided were very basic
- infection (particularly scabies) was a problem; the medical facilities were very limited
- accommodation took the form of dormitories (in portakabins) or tents (without heating or lighting)
- all the food was brought in
- most residents arrived by train (invariably accompanied by *passeurs*) and walked (or sometimes took a taxi) to the Centre.
- in 2002 there had been 56,000 arrests; some were arrested as many as 20 times
- there was a heavy police presence at the Centre
- there was a good deal of tension between the different communities
- the authorities informed the police of any *passeurs* they identified (many of them Kurdish).

12. The Sub-Committee also had separate discussions with M. Derr and Mr Smaïn Laacher, a sociologist working at the Centre. M. Derr emphasised that Sangatte was still a temporary Centre. When asked for his solution to the problems that had given rise to the establishment of the Centre, he said that there was a tendency to criminalise immigrants. If everyone arriving in the Schengen area was given a “*permis de voyage*” this would enable them to travel freely (and for example stay in hotels) without resorting to the smugglers.

13. M. Laacher described the main findings of his research—a summary is contained in Appendix 6. He explained that EU funding had been obtained for further research over a period of three years, looking at countries of origin and exchange of experience between Member States.

14. M. Laacher said that the solutions to the problem were very difficult, complicated as they were by issues of national sovereignty and identity. In present circumstances the “*passeurs*” could not be eliminated; they were a necessary evil. Asked about trafficking, M. Laacher said that they had identified only two or three cases of young (under-age) women being brought in for prostitution.

IV. Lunch with Elected Representatives

15. Those attending the lunch included the Mayors of Bonningues, Coquelles and Fréthun, the Deputy Mayor of Sangatte, a Conseillère Regionale for part of Calais and Members of the Jeune Chambre Economique, who had been responsible for organising the visit. The elected representatives each gave a brief account of the problems caused for their Communities by the existence of the Centre:

Fréthun (1,100 inhabitants) was particularly affected by the problems of the SNCF terminal, which had worsened at the end of 2001. Ninety extra police had been drafted in and arrests were still running at a high rate:

April—8,000
 May—7,000
 June—5,000

There were also problems of petty crime and conflicts between different ethnic groups. The Mayor accepted that it would not be practical to close the Centre at the present time.

Coquelles was at the entrance to the Tunnel. Problems were caused by residents of the Centre in groups of up to 50 making their way to Calais and the freight terminal along the streets, through the fields and on the autoroutes. They were very noisy at night and in the morning, but as yet there had been no impact on house prices.

Sangatte (4,129 inhabitants). Residents of the Centre were in the village all the time; there were fights between them and they disrupted the bus service (by kneeling in prayer). Tourism had stopped altogether because the 10 kms of beach was unusable.

16. The Conseillère Régionale, Mme Gest, a member of the Green Party, gave a different perspective. She said that the “*clandestins*” were very polite and did not cause any trouble. Part of the problem was that the French authorities did not give them the opportunity to apply for asylum in France, as had been discovered when an Arabic speaking member of Parliament had gone to the Centre and explained that they could apply for asylum in France. As a result the Green Party had produced a leaflet in different languages explaining how to apply for asylum. The Green Party was demanding a proper application of the 1951 Convention, amendment of the Dublin Convention and a change in procedure giving people the opportunity to apply for asylum in Calais instead of requiring them to go to Arras.

17. The Mayor of **Bonningues**, (who was also Chairman of the Inter-Communal Group) said that any local measures would only displace the problem, which was one that the United Kingdom and France should not have to deal with alone.

V. Transport undertakings

18. Representatives of the different cross-channel undertakings each gave short presentations to the Committee.

Eurotunnel

19. Between January and June 2001 the number of illegal immigrants targeting Eurotunnel had increased fivefold, largely because the effect of carriers’ liability legislation had shifted the activity of would-be immigrants to Eurotunnel. Regular cancellations had resulted. In July, August and September 10,000 people a month were stopped on the site many of whom would have been trying repeatedly.

20. Following advice from Sir Roger Wheeler, measures to strengthen security were put in place in three phases. The main elements were:

Phase I (July 2001) A zero tolerance plan was put in place, including:

- an increase in the number of security agents from 100 to 370
- the erection of reinforced fences around the platform areas (an area of seven hectares)

Phase II (July–December 2001)

- personnel training was introduced to discourage corruption
- regular patrols by six teams were introduced
- surveillance cameras were installed
- lighting was improved

- a policy of immediate renewal of broken fences was introduced
- a CO₂ detection system was put in place and lorries scanned to detect human occupation
- under-lorry searches were initiated
- video surveillance equipment was installed to pinpoint intruders on site
- sniffer-dog patrols were started

Phase III—which had now been achieved—was a return to normal operation. Almost no-one was now reaching the platform area although about 22 a day were being found in lorries.

21. From October/November 2001 there had been a transfer of “attacks” to freight trains. The SNCF site had borne the brunt since security at Eurotunnel had been improved. Freight trains normally parked for 1 to 1½ hours before embarking to enable the locomotives to be changed. Safety inspections took place. Controls include a carbon dioxide detection system and exposure to sniffer dogs. But there were points on the track before and after Calais where would-be illegal immigrants could stop the trains by tampering with signalling equipment or causing the brakes to engage. This also disrupted passenger lines.

22. The numbers arrested had risen from 763 in September 2001 to 6412 in April 2002. There had been 3018 arrests so far in June. Those caught were handed over to gendarmes and returned to Sangatte or to the border police.

23. Trains had to return to base to be searched if anyone was found on board. Because of the expense of the extra security freight departures were being restricted to departures between 7 p.m. and 3 a.m. so that all resources could be concentrated in this period. There were 80–90 personnel on site except for Sunday–Monday when there was less traffic. Freight trains were being processed in the local freight area to ease congestion in the international freight area, and to be less visible and vulnerable to attack.

24. The number of trains was down to between seven and ten a day from a potential of 15–16. Substantial loss of revenue had resulted—€18m to date in 2002. The objective was that a 24 hour service should be resumed by the end of November.

25. The measures being put in place and due to be finished by the end of July were:

- Double 3m fencing and barriers to replace current fencing—length 4 ½ kms
- external fence and intrusion detection system
- vegetation and grass cut back for easy detection
- trouble spots on line and infra-red detection system linked to control room at a cost of €9m.

Calais Car Ferry Terminal (Calais Chamber of Commerce)

26. The Port of Calais and the Calais Chamber of Commerce had been ordered by the French Government to tighten up security and reinforce the Calais Car Ferry Terminal. A new department, the SPS (Security, Prevention and Safety department) with 55 employees, had been created two years ago to deal with the matter. Efforts were concentrated on easy access spots and 37,700 would-be immigrants, known as “*non-accédents*”, had been handed to the police in a period of 22 months. However, individual drivers had become less vigilant as a result of the recent court ruling on carriers’ liability

28. Additional measures being taken included:

- erection of 1,800 metres of new “smart-fencing”
- installation of a guarded, permit-only car park with barriers

- dog patrols of lorries
- a study of video surveillance equipment

The budget for these improvements was €6.1m for installation costs and an annual €3m for operating expenses.

Seafrance

29. The Seafrance representative made the following points:

- The reason so many “*non-accédents*” went to England was because housing was provided immediately and £37 per week as well. They were economic migrants not asylum seekers. In addition, there were no identity cards in the United Kingdom as there were in France, and there was immediate provision of schooling for the children.
- Everyone at Sangatte was living illegally in French territory and was liable to a fine and a maximum of two years in prison. But all were freed if caught, to attempt to cross again.
- It was absurd that the Port of Calais spent more time on people who wanted to leave France than on those who wanted to enter it. On average 50 passengers a month were prevented from embarking.
- Security was being put in place. The number of “illegals” getting through this way had dropped.
- Coincidentally there was an increase in forged documents turning up at the Port. Carriers could be fined if forgeries were accepted that were “reasonably apparent”. But it was forbidden by French law to use infra-red detection systems. So, many were getting through.
- There was a trend not to seek asylum on arrival in the United Kingdom because of the likelihood of repatriation but just to disappear into the black economy.

APPENDIX 6

Summary of Sangatte Research

“Foreigners in transit at the Sangatte Centre”

1 This research was conducted in 2001/02 at the Sangatte Centre by a French sociologist, Smaïn Laacher and a colleague and completed in June 2002.

2. The study was based on questionnaires administered to 284 residents by the “*mediateurs*” at the Centre, and on 50 interviews with residents and 20 with Red Cross staff.

3. The sample used for the study (reflecting the population of the Centre at the time) was composed predominantly of Afghanis, Iraqis (Kurds) and Iranians.

4. The main characteristics of the people sampled were that they were:

- mostly male (only 14 women)
- young (average age 25: 22 for Afghanis, 27 for Iraqis)
- single (but 83 were married, with a total of 204 children)
- relatively well-educated (only 20 per cent had no secondary education; 15 per cent had achieved qualifications equivalent to the baccalaureate and 26 per cent had gone beyond that).

5. Other significant factors were that:

- most had travelled individually rather than in groups
- most had left their countries because of war or political persecution (only seven per cent because of unemployment)
- half had been asked to migrate by their family
- for most (80 per cent) the journey had taken over a month and for half over three months
- the average cost was \$6000; 53 people had paid over \$10,000, ten of them over \$15,000 (the Afghanis had paid considerably more than the Iraqis)
- for most the payment had already been made in full.

Reasons for coming to the United Kingdom

6. The report contains a lengthy section examining the reasons why those in the sample were determined to go to the United Kingdom. Most (62 per cent) said they had a specific destination in mind when they left their own country, although the great majority knew little or nothing about it. Of those who said they had chosen their country of destination most (58 per cent) had chosen the United Kingdom.

7. Speaking English made little difference to the choice of destination. The only factor that correlated significantly with the choice of the United Kingdom was the presence of friends or relatives in the United Kingdom, although even this was not a determining factor. Nor was it just a matter of family ties: it was often because a family member in the United Kingdom had paid for the journey.

8. The authors of the report believe that the most important determining factors in choice of destination are the experience of the journey itself (not least at Sangatte), including information from smugglers, and the reception accorded in the countries through which they have passed rather than a fine calculation of asylum procedures in

different countries or of levels of benefit. Most of those in the sample had travelled through Turkey, Greece, Italy and France often (it was said) being subjected to (decreasingly) unpleasant experiences by the authorities in each. The United Kingdom was the end of the line and the only country which they had not experienced. At the same time the United Kingdom was regarded as meeting an asylum seeker's basic needs (primarily accommodation but also access to work) more promptly and in a more dignified way than France. There was a lot of feedback to Sangatte from people who had made it to the United Kingdom.

9. Most of the sample would stay in the United Kingdom if they succeeded in getting there. A small proportion (12 per cent) wanted to move on to the USA or Canada. Only a quarter would stay in France, if they failed to get to the United Kingdom.

Sangatte

10. The authors do not believe that Sangatte is a magnet to people in countries of origin. The great majority of the sample had not heard of Sangatte until they were en route and over half not until they reached France.

11. The authors believe that closure of the Centre, would have the opposite effect to that intended, leading to the reappearance of asylum seekers in the Channel ports in larger numbers than before. But they are concerned that it could be changed into a detention centre. They recommend:

- changing the reception arrangements
- radically improving the conditions
- excluding the people-smugglers.

Conclusions

12. The author's main conclusions are that:

- the EU should not restrict but extend rights of protection
- the smugglers not the victims should be criminalised
- people in an irregular position should have some legal protection
- concentration on strengthening borders will not stop people coming
- the combination of economic globalisation and the proliferation of international instruments are serving to "universalise" immigration and asylum
- no solution is possible without a "redefinition of relations between 'les pays dominants' et 'les pay dominés'".