



Joint Refugee Council and Oxfam GB response to the Home Affairs Committee Inquiry into Immigration Control

December 2005

1. Introduction

1.1 The Refugee Council is the largest organisation in the United Kingdom working with asylum seekers and refugees. We not only give help and support to asylum seekers and refugees, but also work with them to ensure their needs and concerns are addressed by decision-makers. Our members range from small refugee-run community organisations to international NGOs, such as Christian Aid, Save the Children and Oxfam.

1.2 Oxfam works with others to overcome poverty and suffering. We bring our experience in the UK together with our humanitarian experience of working in refugee situations around the world, to understand of causes of refugee flight and the human consequences of failing to protect some of the most vulnerable people in the world. We work with refugees and asylum seekers in the UK to help them to challenge and change public, government and media attitudes. At the same time, we aim to influence government policies on asylum at national and EU levels to ensure that they respond to the needs of those in need of international protection.

1.3 The Refugee Council and Oxfam welcome the opportunity to provide evidence to the Home Affairs Select Committee Inquiry into immigration control. Our submission focuses on the impact of extra-territorial UK immigration controls on refugees and asylum seekers. We would like to draw the Committee's attention to the Oxfam report *Foreign Territory: the internationalisation of EU asylum policy*, published earlier this year.

1.4 We have additional concerns about other topics that this inquiry will focus on, in particular the quality of IND decision making on asylum claims; the impact that restrictions on publicly funded legal advice have had on asylum seekers' ability to access justice; and the inappropriate detention of asylum seekers. We fully endorse the evidence submitted by ILPA and Amnesty International UK in relation to these issues.

2 Reconciling immigration controls with the right to seek asylum

2.1 Over recent years, the Government has invested heavily in measures to strengthen the UK's borders. These measures are portrayed as being essential for 'migration management' and preventing migrants from entering the UK outside the legal routes. However, one of their impacts has been to make the UK one of the most difficult countries in the world to enter for the purpose of seeking asylum.

2.2 UK immigration controls provide no legal way for a refugee to enter the UK to apply for recognition of their refugee status.¹ As a result, most refugees seeking to enter the UK are forced to do so 'illegally', either using forged travel documents, or avoiding immigration controls altogether.

2.3 UK immigration controls seek to prevent illegal immigrants from reaching the UK. They do not adequately recognise the fact that, in exercising their right to seek asylum, asylum seekers are in fact entering legally under international law, despite not necessarily being in possession of

¹There is no provision in UK Immigration Rules for people overseas to be granted a visa to come to the UK to apply for asylum. In theory, overseas consular authorities can refer an entry clearance application to the Home Office in the UK in situations where the refugee is outside his country of origin and can demonstrate a prima facie case that his/her circumstances meet the definition of the 1951 Refugee Convention; that he has close ties with the UK; and that the UK is the most appropriate country of refuge. These rules are contained in the Asylum Policy Instructions. However, as highlighted in a recent study 'these instructions are not widely known and the authorities have no policy of actively promoting awareness about their existence and the possibility of applying for asylum from abroad. In practice, due to the very limited number of persons concerned (less than 10 cases each year...), the Protected Entry Procedure has very low priority for the authorities.' Asylum applicants are often refused on the basis that there is no basis in the Immigration Rules allowing for entry clearance to be granted in order for the applicant to be able to request asylum when arriving in the UK. Gregor Noll et al (2002) *Study on the feasibility of processing asylum claims outside the EU against the background of the Common European Asylum System and the goal of a common asylum procedure*.

appropriate travel documents or visas required by the UK's immigration rules. For many refugees, obtaining a passport would involve approaching the very authorities whose persecution they fear. The drafters of the 1951 Refugee Convention recognised that refugees may have to rely on forged documents in order to flee persecution and seek asylum elsewhere, and the 1951 Convention explicitly prohibits states from penalising them for doing so.²

2.4 UK immigration controls are a blunt instrument that do not distinguish between those fleeing persecution and irregular migrants seeking to enter the UK for other purposes. Immigration controls prevent refugees fleeing persecution from reaching sanctuary in the UK. This has profound implications for refugees' safety, and sends a dangerous signal to the rest of the world that it is acceptable for states to shirk their international obligations for refugee protection.

2.5 The global refugee protection system and the 1951 Refugee Convention are predicated upon the exercise of Article 14 of the Universal Declaration on Human Rights – the right to seek asylum.³ The Refugee Council and Oxfam recognise that states have a right to control the entry, residence and expulsion of non-nationals. However, the exercise of this right must be consistent with states' international legal obligations and must not undermine the rights of refugees and asylum seekers that derive from international human rights and refugee law.⁴ The United Kingdom, as a member of the European Union, recognised this when the European Council reaffirmed 'the importance the Union and Member States attach to absolute respect of the right to seek asylum' and asserted that migration policies must be based on principles which 'offer guarantees to those who seek protection in or access to the European Union'.⁵

2.6 In spite of this commitment on the part of the UK and all the EU Member States to uphold and respect the right to seek asylum, the UK and the European Union have continued to implement policies that intensify immigration controls without ensuring access to the territory for those in need of protection. Migration control is now at the top of the EU political agenda and the EU's work in the fields of development, external relations and freedom, security and justice is united in a concerted effort to 'fight' illegal immigration to the EU.

2.7 The EU, supported by the UK, is spending millions of Euros on developing legislation, surveillance equipment and vehicles, enforcement and intelligence personnel, a European coastal patrol and an EU-wide agency to co-ordinate surveillance and strengthen operational co-operation. Moreover, the EU is committed to providing financial support, training, equipment and expertise to third countries to stem migratory movements to Europe.⁶ Comparable resources are not being invested in developing measures to safeguard access to protection for refugees.

2.8 In this climate, the only guarantee offered to asylum seekers is that their journey in search of safety and protection in the EU is likely to be arduous and treacherous, at worst fatal; and their

² Art 31 (1) of the 1951 Refugee Convention states '*The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.*'

³ Universal Declaration of Human Rights Article 14, *Everyone has the right to seek and to enjoy in other countries asylum from persecution.*

⁴ The Global Commission on International Migration is also committed to the principle enunciated in the 'Agenda for Protection' established by UNHCR that the institution of asylum should not be undermined by the efforts of states to stem irregular migration, *'Migration in an interconnected world: New directions for action'*, GCIM, 5 October 2005

⁵ Presidency Conclusions, Tampere European Council, 15/16 October 1999.

⁶ On 30 November 2005, the Commission adopted a Communication laying down priority actions for improving migration management. Whilst signalling that the Commission will step up efforts to work with partner countries in tackling the root causes of migration, the Communication focuses on a proposal to establish a surveillance system and Mediterranean Coastal Patrols Network to cover the whole of the Mediterranean Sea, working with key countries of origin in Africa to ensure "a more effective fight against illegal migration and trafficking in human beings and working with neighbouring countries to intensify their efforts and "improve the management of migration". Press release IP/05/1500, 30 November 05. See also the five year work programme of the Euro-Mediterranean Summit, 15074, 28 November 2005. On 26 November 2005, Libya was quoted by the BBC as saying that it alone had "prevented 40,000 would be migrants from crossing the Mediterranean Sea." On 30 November 2005, the EU Border Assistance Mission to Ukraine and Moldova was launched in order to help the border enforcement personnel of those two countries more effectively control illegal immigration. The mission will cost around 8 million euros over two years. (Source: Commission website).

chances of reaching Europe are rapidly dwindling. The impact on the asylum regime in Europe is likely to be terminal unless effective action is taken to temper the impact of immigration controls on those who seek protection.

2.9 The UK and other member states must work harder to reconcile their right to control national borders with the right of every person to seek asylum. The UK Government has a responsibility not only to assess the impact of its immigration controls on those seeking asylum but, where their impact is detrimental to the exercise of fundamental human rights, to seek and put in place solutions.

2.10 The Refugee Council and Oxfam are concerned that the UK Government is failing to assess or address the impact of its immigration laws and policies on asylum seekers, refugees and the international refugee protection regime. We are further concerned that immigration controls have had a detrimental impact on the international institution of asylum without the Government having offered any significant guarantees to those who seek protection in the UK. Finally, there is evidence to indicate that the UK Government has deliberately imposed immigration controls with the stated aim of curbing the exercise of the human right to seek asylum. This seriously undermines the foundations of the refugee protection regime and places many lives at risk.

3 Immigration controls that restrict the right to asylum

3.1 Oxfam and the Refugee Council welcome the Government's recent assertion that it is committed to providing sanctuary to refugees fleeing persecution.⁷ However, we remain concerned that, in reality, refugees seeking protection in the UK, as well as other EU countries, are confronted by formidable barriers that have been erected to keep irregular migrants out. The list of policy tools used by the UK to control entry into the territory is long and growing. In particular, we would like to draw the Committee's attention to the following immigration control measures that have significant impacts on refugees, asylum seekers and the international refugee protection system:

3.2 Visa requirements

3.2.1 The list of visa nationals has been extended from 19 in 1991 to 108 in February 2005.⁸ Whilst we recognise that visas are a legitimate tool for controlling immigration, we also note that, in practice, it is impossible to obtain a visa for the purpose of seeking asylum in the UK. Where it is suspected that an individual intends to seek asylum in the UK, their visa application will almost certainly be refused.⁹

3.2.2 Further, the UK imposes visa requirements as a means of achieving reductions in the number of asylum claims from particular countries. For example, in November 2002, following an increase in the number of Zimbabweans claiming asylum in the UK, the Government imposed a visa requirement which resulted in a 61% reduction in Zimbabwean asylum claims in the first quarter of 2003. This has been cited by the Government as an example of success in tackling

⁷ The Prime Minister, in his forward to the Home Office five year strategy for immigration and asylum stated that 'while making the rules strict and workable, we will make sure we don't slam the door on those genuine refugees fleeing death and persecution. Charles Clarke wrote that "We will continue to welcome genuine refugees, respecting our obligations under the 1951 Geneva Convention, which is part of the international legal and ethical framework that enshrines basic principles of human decency." Home Office five year strategy for immigration and asylum *Controlling our borders: making migration work for Britain*. (February 2005)

⁸ Current figures correct as of 2 February 2005. See <http://www.ukvisas.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1020786334922> for a list of countries.

⁹ See footnote 1.

abuse of the asylum system,¹⁰ despite the fact that 2240 Zimbabweans were recognised by the UK as Convention Refugees in the year the visa requirement was introduced.

3.2.3 The Refugee Council and Oxfam believe that, in the absence of any flexibility for asylum seekers, the imposition of a visa requirement on any country experiencing widespread human rights violations and forced migratory movements represents a failure to respect the right to seek asylum. Such actions contradict UNHCR's request that states not impose visa requirements on the nationals of countries where there are civil wars, generalised violence or widespread human rights abuse.

3.3 Visa fingerprinting and biometric technology

3.3.1 The Home Office has extended the use of biometrics, giving as one reason the need to reduce perceived abuse of the asylum system.¹¹ Additional biometric projects will be introduced as part of the 'e-borders' scheme which is intended to further strengthen UK border controls. In January 2004, the biometric visa project was extended to East Africa, specifically in order to reduce the number of 'unfounded' Somali asylum claims as well as applications from those the Government suspected of not being Somali nationals.¹² Biometric technology is being used to strengthen measures that restrict the right to seek and enjoy asylum from persecution in the UK.

3.4 Juxtaposed controls and airline liaison officers

3.4.1 Juxtaposed controls is the term used to describe situations where full immigration control procedures are performed by UK immigration staff in a country outside the UK. The effect of juxtaposed controls is to shift the UK's borders overseas. The Nationality, Immigration and Asylum Act 2002 gives the Home Secretary the power to introduce juxtaposed controls in any port in the European Economic Area. Controls currently operate at ports and stations in France and Belgium.

3.4.2 The following statement, made in October 2002 by James Munro, Assistant Director of the Immigration Service, demonstrates that juxtaposed controls, like visas, are being used by the Government to prevent asylum seekers making a claim in the UK:

"When, for example, Colombia and Ecuador were included as visa states, this was directly in response to an increase in the number of those nationals coming directly to the United Kingdom in order to apply for asylum. A similar aim is present in the juxtaposed controls in France, where asylum seekers are refused leave to enter."¹³

3.4.3 In addition to operating a system of juxtaposed controls, the UK posts airline liaison officers (ALOs) in overseas airports where there are concerns about the number of people travelling to the UK without proper documentation. The UK currently has ALOs and Deputy ALOs in over 30 locations worldwide and is seeking to expand the network further.¹⁴ In 2003, 33,000 people were prevented from travelling to the UK from airports where ALOs were stationed.¹⁵ We do not know all the countries to which ALOs are posted, nor how many of the people they prevent from travelling are in need of international protection. However, we do know that ALOs are posted

¹⁰ See Home Office press release reference: 144/2003, 22 May 2003 *Asylum Applications Down By A Third – Home Secretary Welcomes Significant Progress*

¹¹ See Home Office press release reference: 024/2004, 21 Jan 2004 *Increased use of biometrics to tackle asylum abuse.*

¹² *Ibid.*

¹³ Statement by James Munro in *European Roma Rights Centre Vs Immigration Officer at Prague Airport and the SSHD*, 8/10/02.

¹⁴ Reference is made to the number of ALOs and Deputy ALOs in the Diplomatic Service Procedures: Entry Clearance. Volume 1: General Instructions – Annex 1.7, 6th October 2005. The intention to extend the airline liaison network further was re-stated by the Home Office in its five year strategy for asylum and immigration. *Controlling our borders: making migration work for Britain.* (February 2005).

¹⁵ Home Office (February 2005) *Controlling our borders: making migration work for Britain.* Five year strategy for asylum and immigration.

to countries, including Kenya, Sri Lanka, Bangladesh, Russia and Romania, where human rights abuses are well-documented, from which refugees originate, or through which refugees transit en route to countries where they can benefit from effective protection in accordance with the 1951 Refugee Convention.¹⁶

3.4.4 The UK also posts Immigration Liaison Officers (ILOs) overseas to combat illegal immigration. As with ALOs, we do not have any detailed information about their activities, the training they undergo, or the extent to which they adhere to their obligations under international refugee and human rights law, including the absolute obligation not to *refouler* (return) any person to a country where their life of freedom would be threatened, or where they would be subject to persecution. Similarly, we cannot say with certainty how their actions impact upon those fleeing persecution. However, their presence in refugees' countries of origin and transit, combined with their function in preventing illegal migration, suggest that among those affected by ILOs' activities will be refugees who have to travel irregularly.

3.4.5 The Refugee Council and Oxfam believe that extra-territorial immigration controls, including juxtaposed controls and UK immigration officials operating 'pre-clearance' procedures, frustrate the object and purpose of international refugee law. Such procedures, if replicated on a wide scale, would make the 1951 Convention increasingly meaningless, since refugees would find it more difficult to cross international borders to exercise their right to asylum.

3.4.6 As UNHCR has pointed out, Governments have a duty to ensure that any extra-territorial immigration controls operate in full accordance with international refugee and human rights law:

*'Given the practice of States to intercept persons at great distance from their own territory, the international refugee protection regime would be rendered ineffective if States' agents abroad were free to act at variance with obligations under international refugee law and human rights law.'*¹⁷

3.5 Carriers' sanctions and new detection technology

3.5.1 Immigration functions are the sole responsibility of the state. In recent years, however, the UK has transferred areas of immigration control to private companies. Airlines and other carriers are required to pay a fine for every improperly documented traveller they bring to the UK.

3.5.2 The very real threat of being fined has made carriers more cautious in recent years about who they allow to travel. If a carrier operates sufficiently stringent document checks the UK may grant it 'approved gate check status' meaning that fines will usually be waived.¹⁸ In October 2003, the Government announced its intention to make greater use of this arrangement by providing new security and searching technology to sea carriers to detect people hiding in vehicles. Ferry companies are becoming increasingly responsible for enforcing border controls and are required to use high technology detection equipment to scan vehicles that they bring to the UK.

3.5.3 Corporate interests, including the overriding interest carriers have in maximising their profits, result in companies striving to avoid fines by refusing to let passengers board unless they are convinced that their documentation is valid. In doing so, private companies, which are not themselves bound by the 1951 Convention, may be undermining the fundamental right to asylum and forcing refugees to remain in countries where their lives are at risk.

¹⁶ Airline Liaison Officers' presence in these countries is documented within the FCO HM Diplomatic Service Overseas Reference List.

¹⁷ UNHCR Executive Committee (Standing Committee), *Interception of asylum seekers and refugees: the international framework and recommendations for a comprehensive approach*. (doc EC/50/SC/CRP.17) 9 June 2000, para 23.

¹⁸ In October 2003 there were 2 sea carriers and 58 air carriers with sufficient checks to have been granted this status.

4 The impact of UK immigration controls on refugees

4.1 The UK's interception measures are subject to minimal scrutiny and accountability, partly because they are implemented outside state territory or 'privatised' by being delegated to airlines and other carriers. There is no data on the number of refugees or asylum seekers the UK has intercepted and prevented from reaching sanctuary in the UK. However, the Refugee Council and Oxfam believe that the dramatic increase in UK and EU interception and border control measures is a factor that has contributed to the dramatic reduction in asylum applications in the UK.

4.2 There is no evidence to support the Government's claims that those asylum seekers who are kept out of the UK are 'unfounded' claimants who seek to abuse the system. The inability of extra-territorial immigration controls to identify people with protection needs leads us to conclude that people who would be recognised as refugees in the UK, were they able to enter the country, must also be being kept out. Some may be forced to remain in countries where they are at risk of persecution or torture.

4.3 It is extremely difficult for UK agencies to obtain hard evidence about the impact of interception measures on refugees, partly because, by definition, most intercepted refugees never reach the UK to tell their stories. Research into the impacts of UK immigration control measures on refugees, as well as detailed information from the Home Office about its interception practices, is urgently needed and long overdue.

4.4 The limited evidence that is available indicates that interception has the following impacts on those trying to reach the UK to seek asylum from persecution:

4.5 Displacing refugees

4.5.1 As immigration controls increase on some routes, they become too difficult to pass, and people seek new routes of entry. Interception practices and immigration controls thus have a displacement effect. This effect has been recognised by the Government¹⁹ and research indicates that stricter controls in the EU have resulted in asylum seekers being displaced to central and eastern Europe.²⁰

4.6 Forcing refugees to take more dangerous risks

4.6.1 As one route is closed, desperate people increasingly turn to life-threatening alternatives. Reports of people crossing the Channel on li-los and hiding in the undercarriages of aeroplanes illustrate the risks people are prepared to take in order to reach safety. In November 2005, Franco Frattini, EU Justice, Freedom and Security Commissioner, stated that 'practically every day people

¹⁹In February 2003, following the closure of the Sangatte centre in France and the introduction of UK immigration controls and detection technology in France the Home Secretary, David Blunkett, stated 'Of course we are alert to the potential for displacement.' Home Office Press release 4 Feb 2003 *UK/French cooperation key to combating terrorism and illegal immigration*.

In November 2002, the Home Secretary, David Blunkett, stated that 'The French and UK Governments have been working since the summer to tackle illegal immigration to the UK from northern France, including improving security at the Frethun freight depot, putting UK immigration controls into Calais and lending the French detection equipment to use at Calais. The UK Government is also working with the Belgian government to deal with any displacement of illegal immigrants to other ports.' Home Office Press release, 5/11/02 *No new entrants to Sangatte from today*.

The 2003 Home Office consultation process report on juxtaposed control implementation, Dover-Calais, stated that 'We anticipate that once we introduce juxtaposed controls at Calais, other ports with ferry services to and from the UK may see an increase in the numbers of inadequately documented people attempting to pass through them. We will continue to monitor these patterns and to make further use of juxtaposed controls or new detection technology where it is deemed appropriate.'

http://www.ind.homeoffice.gov.uk/ind/en/home/laws_policy/consultation_documents/closed_consultations.Maincontent.0085.file.tmp/juxt_process_report.pdf

²⁰See Roger Zetter et al (2003) An assessment of the impact of asylum policies in Europe 1990-2000.

die in the Mediterranean' while seeking to enter the EU illegally by sea.²¹ UNITED, a European anti-racism network, has documented more than 6300 deaths since 1993 that it attributes to EU asylum laws, border controls, detention policies and carrier sanctions.²² Many thousands more deaths remain undocumented, and it is unknown how many of those who have died were asylum seekers seeking international protection in the UK or another EU member state.

4.7 Reliance on smugglers and traffickers

4.7.1 As entering the UK becomes more difficult, many refugees have little alternative but to turn to smugglers and traffickers to help find a route to safety. Inadvertently, state interception may be forcing vulnerable people into the hands of unscrupulous smugglers who charge vast amounts of money to assist people in evading immigration controls or traffickers who may force them into exploitative labour.²³

4.8 Threatening the refugee protection system and breaching international law

4.8.1 Because interception measures do not distinguish between migrants who need international protection and those who do not, they risk violating international human rights laws and endangering refugees' lives. Through its immigration controls, the UK is eroding the right to seek and enjoy asylum in another country and, in some cases, may be forcing individuals to return to a country where they face torture or persecution, a process known as *refoulement*.

4.8.2 States are obliged to interpret and implement all their treaty obligations in good faith, including obligations under the 1951 Refugee Convention.²⁴ The barrage of measures designed to obstruct people from gaining access to, and seeking asylum on, UK territory violates this principle of good faith and frustrates the very purpose of the 1951 Refugee Convention. Further, the UK is threatening the structure of the international asylum regime by undermining the spirit of shared responsibility on which it is founded.

4.9 Forcing refugees to seek asylum in countries with inadequate protection

4.9.1 Many migrants are intercepted in countries through which they only intend to transit en route to another. Where refugees are concerned, the UK expects individuals to apply for asylum in the country where they have been intercepted, regardless of whether that country will provide them with effective protection. In doing so, the UK may be forcing people to remain in countries that violate their rights as refugees, or where they remain separated from family and community members indefinitely.

4.10 Shifting responsibility for refugees onto poor countries

4.10.1 The UK intercepts migrants in states, such as Kenya, that share borders with refugee-producing countries. By preventing refugees from leaving those countries, the UK increases the economic and social costs to less developed countries, many of which have weak refugee

²¹ Article in the Sunday Times, 27 November 2005 *Europe plans naval taskforce to stop illegal African migrants*. See also that the International Centre on Migration Policy Development estimates that some 2,000 migrants die each year trying to cross the Mediterranean Sea from Africa to Europe, GCIM report, 5 October 2005.

²² UNITED maintains an up to date list of such deaths: see <http://www.united.non-profit.nl/pdfs/listofdeaths.pdf>

²³ Recent Home Office research found that 'There is strong circumstantial evidence, though little authoritative research, that restrictionism – and most probably direct measures – led to growing trafficking and illegal entry of both *bona fide* asylum seekers and economic migrants.' Roger Zetter et al (2003) *An assessment of the impact of asylum policies in Europe 1990-2000*

²⁴ Vienna Convention on the Law of Treaties Art 31 (1) *A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.*

protection systems and already host the majority of the world's refugees.²⁵ In the long term, this will have adverse consequences for the refugee protection regime, which relies on the international community sharing responsibility for refugee protection and on states' good will to keep their borders open to those fleeing persecution.

5 Conclusion and recommendations

5.1 For a person seeking to exercise his or her right to asylum, the first step is being able to access and live in safe territory while his or her case is being decided. The Refugee Council and Oxfam believe that there is an urgent need for immigration control measures outside UK territory to include effective safeguards to ensure that people with international protection needs can access a safe country and have their claims for asylum effectively assessed. If the UK and its EU partners continue to restrict refugees' access to their territory, then domestic asylum systems will become meaningless.

5.2 The UK interprets its obligations towards refugees and asylum seekers as being invoked only once an individual sets foot in the UK. It uses immigration controls to intercept migrants in countries from which refugees need to leave to escape persecution, as well as in countries through which refugees transit. The Government justifies this action by claiming that refugees should seek asylum in the first country they reach. However, this overlooks the fact that UK immigration controls prevent refugees from fleeing their countries of origin to seek asylum from persecution. Further, there is absolutely nothing in international law that requires refugees to claim asylum in the first country they arrive in.²⁶ Refugees may pass through other countries on their way to the UK but not apply for asylum in them because they do not offer adequate protection in accordance with the 1951 Refugee Convention and other international human rights instruments.

5.3 The Refugee Council and Oxfam believe that migration control safeguards should include the following:

- Government action to make access to asylum less dangerous for refugees
- Transparency in demonstrating the compatibility of all migration control activity with human rights law and obligations
- Responsibility upon the intercepting state to identify any individuals with international protection needs and to ensure that they have access to an effective refugee determination system and a durable solution
- Flexible immigration controls that can respond to the fact that it is impossible for many refugees to obtain valid travel documents and visas prior to fleeing persecution
- Guidelines and training for immigration and airline liaison officers to ensure they do not prevent people from exiting a country where they have an urgent need to flee but lack the required documentation
- Absolute respect for the concept of responsibility-sharing which underpins the 1951 Refugee Convention
- Scrutiny of interception activities, including states facilitating UNHCR and NGO presence at all interception locations

²⁵ Refugee Council (June 2004) *Refugees: Renewing the vision* - 70 per cent of the world's refugees are in developing countries, nearly one third in the 49 poorest countries. Another 25 million people have been forced from their homes by violence or persecution but remain within the borders of their countries, mostly in the developing world, so are classed as 'internally displaced' persons rather than refugees.

²⁶At the end of 2002, experts meeting under the auspices of UNHCR concluded: "There is no obligation under international law for a person to seek international protection at the first effective opportunity". Summary Conclusion on the Concept of "Effective Protection", Lisbon Expert Roundtable, UNHCR, December 2002. Indeed, UNHCR guidance is that the intentions of the asylum seeker should "as far as possible be taken into account."

