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STUDY

**‘Analysis of the external dimension of the EU’s asylum and immigration policies’ –
summary and recommendations for the European Parliament**

Content:

The external dimension of migration policy: an old problem. The various forms of externalisation of the asylum and immigration policy.

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I INTRODUCTION

In early autumn 2005 at least ten people died, hundreds of others, including asylum-seekers, were deported and some were even abandoned in the desert by the Moroccan authorities following their desperate attempts to cross the only land border that exists between Africa and Europe, which consists of ditches and three-metre walls surrounding the Spanish enclaves of Ceuta and Melilla in northern Morocco. A number of weeks later once again hundreds of migrants were escorted to the border by the Algerian authorities after their evacuation from a vast informal camp set up in Maghnia, near the Moroccan border. Again, asylum-seekers were among the crowd. Since the beginning of 2006 thousands of people, mainly from sub-Saharan Africa, have tried to cross the Atlantic from Mauritania and Senegal to reach the Spanish coast of the Canary Islands. These dramatic events – the number of people who have drowned at sea or died while crossing the desert, and more generally the number of victims of migration in recent years is innumerable – have given rise, throughout the Mediterranean, to reflection and initiatives to try to stop a phenomenon wrongly described as ‘illegal immigration’. There has been talk of a ‘Marshall Plan for Africa’, and several intergovernmental meetings between the countries of sub-Saharan Africa, North Africa and the European Union have been held or are going to be held, such as the conference due to take place in Rabat on 10 and 11 July. The priorities defined place emphasis on ‘dialogue and cooperation with Africa’ and ‘cooperation with neighbouring countries’¹.

As part of these reflections, the solutions envisaged have focused on two aspects: 1) securing borders to prevent illegal immigration; 2) enabling migrants to settle in their country of origin, particularly through cooperation with those countries. When it comes to the management of migratory flows, neither of these aspects are new for the European Union, which has for a number of years devoted a significant proportion of its efforts in the field of justice and home affairs to these matters: they were already present in the work programme adopted at the Tampere European Council in 1999 and have since resulted in the establishment of numerous legal and operational provisions. The current situation calls into question not the effectiveness of these provisions but their relevance to the state of affairs involving the new itineraries of the south-north migration. It would appear that stronger controls at the EU’s external borders, far from solving the problems they seek to solve (preventing illegal immigration) actually result in a movement of the borders instead.

The migrants take other routes that are often more dangerous and more costly, and the obstacles they encounter are now out of reach of the Union, often out of sight of Westerners, in the countries they leave from or pass through. This movement of the problems comes at a cost: firstly, for the migrants and people who need international

¹ COM(2005)621 final.

protection and are exposed to violations of their fundamental rights, despite the fact that these rights are the responsibility of both the European Union and the Member States, as demonstrated by the events in Ceuta and Melilla; secondly, for the geographical areas concerned as it contributes to their destabilisation. This applies when the countries of northern African are persuaded, under pressure from the EU, to introduce control measures at their own borders to prevent nationals from their neighbours in Black Africa entering despite the fact that they could enter freely before that. As a consequence, it is worrying today to see the Union structuring its relations with third countries in line with a logic whose, often devastating, effects can be measured. That, however, is the risk involved in the guidelines adopted, within the framework of the external policy, on migratory issues since the Hague Programme.

The Hague Programme

The multiannual Hague Programme, ‘Strengthening Freedom, Security and Justice in the European Union’, adopted by the Brussels European Council held on 4 and 5 November 2004, lays down the bases for work over the next five years and identifies two aspects in relation to the EU’s asylum and immigration policy. The first relates to the ongoing development of a common policy within the EU at a time when the first phase of this process, as defined at the 1999 Tampere Council, was soon to be achieved with the adoption of a series of Community regulations in the field of asylum and immigration. The second aspect relates to ‘the external dimension of asylum and migration’, on which considerable emphasis is placed.

If the objective of the Hague Programme – which forms the second phase of the work begun in Tampere – is ‘to improve the common capability of the Union and its Member States to guarantee fundamental rights, (...) to provide protection in accordance with the Geneva Convention on Refugees and other international treaties to persons in need, to regulate migration flows and to control the external borders of the Union’, the means examined for this purpose *in EU territory* are far from concrete. The scenario of a common European asylum system, raised by the Commission since 2000², is not envisaged until 2010. It is recalled that labour migration remains the competence of the Member States. As for the rest, the Hague Programme limits itself to calling for better cooperation between states, improved knowledge and mechanisms for the gathering and sharing of information on migratory movements, including coordination between the national policies and EU initiatives.

The same applies to the issue of the integration of third-country nationals residing in the EU, whose success is beneficial for ‘stability and cohesion within our societies’: this integration is merely dealt with in recommendations with no specific scope. The text states, for example, that ‘obstacles to integration need to be actively eliminated’ in order to ensure ‘equal opportunities’, and recommends the creation of a website to promote ‘the structural exchange of experience and information on integration’.

However, the chapter in the Programme on the external dimension of asylum and immigration, the subject of this report, highlights the emphasis the Member States place on this aspect and the efforts, including financial efforts, they are prepared to devote to it. It stipulates that ‘EU policy should aim at assisting third countries, in full

² COM(2000)755 final.

partnership, (...) in their efforts to improve their capacity for migration management and refugee protection, (...) build border-control capacity, enhance document security and tackle the problem of return'. Although, as we will see, the Council's desire for third countries to take partial responsibility for managing migratory flows is not new, it is the first time it has been given such a place in the Union's work programme. There are two reasons for this. On the one hand, with several spectacular episodes in 2004 having highlighted the tragedies caused by migrants crossing the sea to reach the Sicilian and Andalusian coasts, the Council calls upon 'all states to intensify their cooperation in preventing further loss of life', recognising that 'insufficiently managed migration flows can result in humanitarian disasters'. On the other hand, the legislation intended to govern the EU's common policy on asylum and immigration within its borders, as provided for by the Treaty of Amsterdam, was nearing completion at the end of 2004. The main concern now seems to be protecting those borders from entry by new migrants.

II THE EXTERNAL DIMENSION OF THE MIGRATION POLICY: AN OLD CONCERN

1. Action plans of the High-Level Working Group on Asylum and Immigration. The Sri Lankan example

The EU's plan to move control of its borders beyond the borders themselves did not emerge for the first time in 2004. In order to respond to 'the problem of mass influxes of asylum-seekers and illegal immigrants' into the European Union, the High-Level Working Group on Asylum and Immigration (HLWG) was set up by the General Affairs Council in December 1998 to implement cross-pillar programmes in the main countries of origin and transit, ranging from trade policy to development assistance, with a view to 'combating the reasons for the immigration and influxes of refugees' and 'helping to reduce the migration tensions'³.

Nevertheless, the proposals retained from the country-specific action plans presented a year later, in October 1999, by the HLWG at the Tampere Council sought to tackle illegal immigration at its source, for example by introducing systems to detect false documents, sending European liaison officers to the countries of departure or transit to improve departure controls and even signing readmission agreements.

One observer noted that of the 18 measures proposed in the action plan for Morocco, which barely touched on the socio-economic context of the emigration from that country, only one relates to aid for the integration of Moroccan nationals residing in the Member States, while more than half relate to the suppression or prevention of illegal immigration⁴. This concept of the partnership, which the same observer describes as 'Eurocentric', is the same concept that characterised the action plan for Sri

³ Introduction by the Finnish Presidency at the Tampere Extraordinary European Council (15-16 October 1999).

⁴ A. Belguendouz, *'Le Maroc non-africain, gendarme de l'Europe?'* ['Non-African Morocco, Europe's policeman?'], Rabat, 2003.

Lanka. Although the need for a global approach to the issues of border security and protection, combining the socio-economic aspect and development, was underlined, rather than reflecting this declared objective, application of the action plan reflected a two-pronged concern of the EU: 1) reducing the number of illegal immigrants travelling through or to Sri Lanka; 2) returning Sri Lankan nationals to Sri Lanka despite their large number in the Member States. This resulted in two projects being financed in 2002: one for the International Organisation for Migration (IOM), totalling €13 million, which was aimed at training the employees of the country's immigration services to tackle illegal immigration; another, totalling €1 million, which aimed to establish in Sri Lanka an information system on the migrants' countries of origin⁵. Finally, in 2004 the EU signed a readmission agreement with Sri Lanka, the type of agreement that, as we will see, forms one of the key elements of the external dimension of its migration policy. Sources within the Sri Lankan delegation attest to the fact that, as in the case of Morocco, discussions and decisions on issues related to justice and home affairs (JHA) were entirely the preserve of the Europeans at the negotiations⁶.

2. Immigration in the EU's external policy

The integration of the immigration policy in the EU's relations with third countries was also on the agenda of the Seville European Council in 2002, which underlined the need to use 'all appropriate instruments in the context of the European Union's external relations' to combat illegal immigration. Although it had been decided in 1999 that the fight against illegal immigration would be integrated in all association and cooperation agreements, particularly those concluded with countries in the Mediterranean basin (MEDA programme), and the partnership agreements with the NIS (New Independent States) of Central Europe and Central Asia (Tacis Programme), the Balkans (CARDS programme) and the ACP (Africa, Caribbean, Pacific) countries, the Seville Council went even further by calling for the inclusion of a clause on compulsory readmission in the event of illegal immigration in 'any future cooperation, association or equivalent agreement which the European Union or the European Community concludes with any country'.

The same year (2002), in its communication entitled 'Integrating migration issues in the European Union's relations with third countries'⁷, the Commission provided examples of initiatives already taken to reflect these new priorities in the external aid policy for regions that have traditionally seen emigration. They involve establishing reception policies and infrastructures for asylum-seekers and strengthening institutional capacities (police and justice system), improving border controls, and tackling illegal immigration. It was also around this time that the decision was taken to allocate a budget of €40 million to assist Morocco in improving the management of its borders, although in autumn 2005 the Moroccan authorities complained that they had never received any such funding.

When we think of the debates attended, one year later, by the institutions and certain international organisations on the 'camps' for migrants and asylum-seekers outside

⁵ A. Becerro, 'The External Aspect of Migration Policy', EUI Working Papers, RSCAS No 2004/5.

⁶ OXFAM, 'Foreign Territory: The Internationalisation of EU Asylum Policy', London, 2005.

⁷ COM(2002)703 final.

Europe (see below), it is interesting to note that, again in 2002, the Commission proposed including in the EU's budget, under the chapter 'effective protection capacity in third countries', funding for an 'analysis of the legal, financial and practical questions related to (...) Transit Processing Centres in third countries' with a view to 'reducing secondary movements to EU Member States' and creating and consolidating processing, reception and protection capabilities 'including as regards persons returned from the EU'⁸.

On reading the priorities laid down in 2002, we see that the Hague objectives were already set out some time ago, through a shift towards the EU's foreign policy and cooperation policy by what had until then fallen within the framework of the asylum and immigration policy under JHA. As a result of the compartmentalisation that sometimes exists when dealing with these matters, this shift made it difficult to adopt the necessary global approach to the issue of migration in Europe. This is particularly true in the European Commission, where competences are shared between the Commissioners responsible for Development and Humanitarian Aid, External Relations and European Neighbourhood Policy, and Justice, Freedom and Security. It is also true in the European Parliament given the respective scopes of the Committees on Civil Liberties, Justice and Home Affairs, Development, Foreign Affairs and Human Rights. The situation is no less complicated among civil society, with NGOs in general being more inclined to refine their expertise in their area of activity than exchange their experiences. Indeed, this development would justify collective analyses of the NGOs that support human rights and the rights of migrants and asylum-seekers and those that focus on development.

3. External dimension or externalisation?

Two factors helped to highlight this penetration of the migration issue in the EU's external policy in 2003 and suggested that we had moved gradually from a phase in which this issue was incorporated in relations with third countries to a phase in which the EU was partially exporting the management of its borders to those countries and transferring its responsibilities in the area of asylum – what certain observers have called 'externalisation' of the asylum and immigration policy. The first factor was the British proposal put forward at the informal meeting of ministers of the interior and foreign affairs in Veria in March 2003 to relocate the processing of asylum applications by establishing Transit Processing Centres (TPC) in the regions through which the asylum-seekers travel on their way to Europe and to which they would have been sent back to have their application examined after attempting to cross a European border. The second factor is the reaction to the successive landings of several thousand boat people from Libya along the Italian coast during the summer of 2004: the Italian-German project, which forms part of a global plan to combat illegal immigration, provide development aid for the sub-Saharan countries from whence the immigrants come and ensure 'more human' treatment of asylum-seekers in the countries of transit, to establish 'European immigration counters' in North Africa to gather together outside Europe's borders the people who wish to immigrate.

⁸ European Commission, DG JHA, *Call for proposals 2003*, Budget line 'Cooperation with third countries in the area of migration', B7-667.

Clearly, neither of these two proposals has been given concrete expression in the form of a European programme on externalised detention centres for migrants and asylum-seekers: in certain Member States, as in the Commission, there have been fierce reactions against these suggestions, and in October 2004 an *Appeal against the creation of camps at European borders* gathered hundreds of signatures from MEPs, members of national parliaments and NGOs throughout Europe⁹. However, as a result of the discussions they sparked off, it would appear that these proposals marked a turning point in the conception of the EU's relations with its neighbours on migratory issues. An example of this, in the field of asylum, is the proposal presented by the Commission in 2003 'to explore new avenues' on the basis of a 'genuine policy of partnership with third countries and relevant international organisations' in order to ensure 'consolidation of protection capacities in the region of origin and treatment of protection requests as close as possible to needs'¹⁰. This is an approach that would be validated by the Hague Programme, which places partnership with third countries 'in a spirit of shared responsibility' at the heart of its projects. One year later, in its communication entitled 'A strategy on the external dimension of the area of freedom, security and justice'¹¹, the Commission seeks to demonstrate that the external dimension of JHA helps to create an internal area of freedom, security and justice while supporting the political objectives of the EU's external relations.

4. The importance of the migratory situation in the European Neighbourhood Policy

Aimed at establishing a 'privileged relationship' with the EU's neighbouring countries on the basis of a mutual commitment to common values including respect for the rule of law, good governance, respect for human rights, promotion of good neighbourhood relations and market economy principles, the European Neighbourhood Policy (ENP), finalised in 2004, was developed first of all for the countries situated to the east of the new eastern border following the 2004 enlargement and was subsequently extended to the Euro-Mediterranean partnership and the countries of the Southern Caucasus. For the countries to the south, the Barcelona process is the necessary path for integrating the Neighbourhood Policy. Thus Libya, which is not involved in the process, is not covered. Of the three areas covered by the ENP (Community policies, common foreign and security policy, and police and judicial cooperation in criminal matters), the issues concerning immigration and asylum policy play a predominant role. The Hague Council also describes the ENP as 'the strategic framework for intensifying cooperation (...) with neighbouring countries' in these areas.

In fact, the ENP provides for the establishment of a joint border management system that focuses on moving controls outside the EU's borders, if the partner country concerned agrees. The ENP is implemented differently depending on the neighbour concerned through '*action plans*' that lay down the actions to be carried out in the short and medium term according to the priorities laid down for each partner country¹².

⁹ <http://no-camps.org>

¹⁰ COM(2003)152 final.

¹¹ COM(2005)491 final.

¹² Seven action plans have been negotiated and adopted formally with Israel, Tunisia, Morocco, the Palestinian Authority, Jordan, Moldova and Ukraine. Negotiations are taking place on the action plans with Armenia, Azerbaijan, Egypt, Georgia and Lebanon.

When it comes to asylum and immigration issues however, certain priorities are shared by all of the countries: visa policy (with the possibility of flexible arrangements for ‘certain categories of people’), signature of readmission agreements, improvement of operational and intervention capacity of units monitoring and controlling sea and/or land borders, exchange of information and dialogue on illegal immigration, security of travel documents and visas, exchange of information and experience on the border management system, and finally, training of officials involved in border management (police, border police, customs, etc.).

Each action plan is supposed to reflect the respective interests of each party (the EU and its neighbour): *‘We have worked with our neighbours to devise tailor-made plans that meet the needs and reflect the requests of each partner. Our offer – greater cooperation, more financial assistance, and a chance to benefit from a closer relationship with Europe – will bring real benefits to both sides in a range of fields from education to the environment, and from transport to the fight against terrorism’*, explained Mrs Benita Ferrero-Waldner, the Commissioner responsible for External Relations and the European Neighbourhood Policy, when launching the first action plans.

As far as the migration dimension of the ENP is concerned, the approach instead focuses exclusively on how it benefits the EU, as it highlighted in a recent speech (9 May 2006) on the progress of the process: *‘Europe needs migration. Our populations are getting smaller and growing older. Through the ENP we are trying to manage migration better: welcoming those migrants we need for our economic and social well-being, while clamping down on illegal immigration’*.

From 2007 the ENP’s financial instrument will fund country-specific aid to the tune of 60%, but regional programmes are also envisaged together with programmes on cross-border cooperation. It is important to note that although the ENP is a strictly intergovernmental process, whose evaluation mechanisms do not involve the citizens of the EU or of the partner countries, just as they were not involved in its elaboration, the negotiations on its financing are subject to codecision, which gives Parliament the opportunity to have some control over the policy’s guidelines.

III THE VARIOUS FORMS OF EXTERNALISATION OF THE ASYLUM AND IMMIGRATION POLICY

The externalisation of the European asylum and immigration policy can be broken down into two main aspects: the EU’s plan to ‘relocate’ outside its territory certain border control procedures (A); and its plan to hold third countries accountable, through the transfer of responsibilities, for the consequences of its obligations in relation to the application of its international commitments or the choices it has made in relation to

the management of migratory flows (B). We will see here some examples of the mechanisms that characterise these two dimensions and underline the dangers they may entail.

A - EXTERNALISATION - RELOCATION

1. Carrier sanctions

The idea of passing on responsibility to transport companies, by fining them and forcing them to return passengers without travel documents or visas, is an old one, having appeared in the Schengen Convention (1990). The option was taken up again in the Directive adopted by the European Council on 28 June 2001, which provides for penalties of up to €500 000 and the requirement for carriers to take charge of the passengers and bear the costs of their return. Although the declared objective of the Directive is to combat carriers who exploit migrants without travel documents by making them travel in difficult, and even dangerous, conditions, this system of penalties for transport companies also has the effect of privatising identity paper and visa controls by making the employees of these companies responsible for them, well before the travellers arrive in the Union, with a view to preventing illegal entry.

These methods are therefore not without risks for asylum-seekers, who are quite likely to be refused ticket sales because they do not meet the requirements laid down by the airlines or ferry companies, which are anxious not to be penalised by the country of destination, although their illegal arrival in the country in which they are requesting protection is not in principle a problem for those seeking to travel. This filtering technique is all the more problematic as no legal alternative is offered to those who need to flee their country urgently but do not meet the conditions laid down (see also below ‘protected entry procedures’). Penalties for carriers, who assume some of the control duties of the European police services, either block asylum-seekers far from Europe’s borders or force them to pay more and take greater risks to travel illegally.

2. Immigration Liaison Officers Network

The export of surveillance and identification techniques and skills to protect the Union’s borders in the countries of departure or transit has taken the form of a network of immigration liaison officers (ILO)¹³. These officials from the EU Member States are sent to third countries in order to ‘establish and maintain contacts with the authorities of the host country with a view to contributing to the prevention and combating of illegal immigration, the return of illegal immigrants and the management of legal migration’. Although primarily posted to the authorities of their country of origin or another EU Member State, the liaison officers may also be posted to the ‘competent authorities of the third countries, as well as to international organisations’. They work, in particular, in the airports in third countries, where they help local officials with their control responsibilities in order to prevent at source the departure to Europe of people presumed to be future illegal migrants. As in the case of interception of sea (see below), the Community Regulation on the creation of the ILO network does not

¹³ Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network.

contain any specific provisions on protecting the rights of asylum-seekers and refugees.

3. Interception at sea

A European programme of measures to combat illegal immigration across the maritime borders of the EU was adopted in 2003¹⁴, including port checks (regular shipping services, as well as cargo vessels, fishing boats and pleasure craft) in both the ports of departure of third countries and the ports of Member States. Operational measures for surveillance along coasts and on the high seas (interception) were also laid down: 'In the framework of the overall policy of the European Union concerning its relations with third countries in the area of migration management, cooperation with non-member countries will, in particular, have to involve stepping up "pre-border" checks and joint processing of illegal immigrants intercepted at sea' (looking after the persons intercepted, organising accommodation facilities at the vessels' place of departure in third countries for illegal migrants intercepted at sea, 'on the understanding that no asylum seekers are taken to the mentioned facilities').

Several pilot schemes on interception at sea (Ulysses, Triton, Neptune) were carried out in 2003 and 2004 between several Member States.

As regards interception at sea operations, it is a concern that no provision is made for examining possible requests for access to the territory of the authorities who intercept the vessels and, in spite of the reservation mentioned above in relation to asylum-seekers, no specific arrangements for processing them.

There is no doubt that the methods of interception at sea currently employed are incompatible with the specific precautions that should be taken with regard to persons in need of international protection and with respect for the recommendations reiterated by the United Nations High Commissioner for Refugees (UNHCR), which stipulate that 'interception measures should not result in asylum-seekers and refugees being denied access to international protection, or result in those in need of international protection being returned, directly or indirectly, to the frontiers of territories where their life or freedom would be threatened on account of a Convention ground, or where the person has other grounds for protection based on international law. Intercepted persons found to be in need of international protection should have access to durable solutions (...)'¹⁵. Indeed, several recent episodes have demonstrated the relevance of these concerns: in 2003 dozens of Eritreans rescued at sea by Maltese patrols were returned, without having undergone asylum procedures, to Eritrea where they were imprisoned and tortured. In 2004 boat people were forced on a number of occasions to spend several weeks on board their vessel between Malta and Sicily, having been prevented by both the Italian and Maltese authorities from landing despite the protests of the HCR.

Since its creation in 2004 the European Agency for the Management of External Borders (FRONTEX) has been responsible for coordinating operational cooperation on

¹⁴ Doc. 15445/43.

¹⁵ Conclusion No 97-2003 on protection safeguards in interception measures of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees.

border surveillance, including maritime borders, which enables some form of control, particularly parliamentary control, of these activities to be envisaged. In a November 2005 communication on ‘priority actions for responding to the challenges of migration’¹⁶, the Commission entrusts FRONTEX with the task of studying the possibilities of reinforcing monitoring and surveillance in the Mediterranean, with a view to creating a structure for cooperation between all sides of the Mediterranean Sea, east and west. As far as the recent events in the Canaries are concerned, the Agency was not involved in the decision taken in May 2006 to launch a project cofinanced by Spain and the European Commission involving collaboration between Spain and Mauritania (Atlantis project) on the surveillance of the Mauritanian coastline by joint Spanish-Mauritanian patrols, which is the first example of Commission funding for an operation carried out entirely in the territory of a third country.

Indeed, in 2005 the repeated arrivals of migrants and asylum-seekers in southern Italy led the European Union to draw up, outside any institutional framework or policy of collaboration with the country, a plan with Libya, financed by the Aeneas programme, which provided for immediate and concrete measures for surveillance of Libya’s maritime borders, including in particular the creation of joint European-Libyan patrols to prevent the departure of vessels towards the island of Lampedusa (see B4: The Libyan example).

4. Protected entry procedures

In 2003 the European Commission recommended the establishment of ‘protected entry procedures’ (PEP) as part of a ‘comprehensive approach, complementary to existing territorial asylum systems’¹⁷. The system allows persons who wish to claim asylum in an EU country to approach an embassy, rather than having to risk the dangerous journey to the country itself. The embassy assesses their claims and, if they are approved, they can travel safely to the host country. This option was presented as the best response to the problem posed by the need to reconcile the objective of controlling migration and the requirement to protect refugees. It involved enriching visa policies with a ‘protection’ dimension through the introduction of ‘asylum visas’ and setting up a platform for the regional presence of the EU in departure areas, integrating different dimensions of migration (determination procedures, protection solutions, labour migration and return as well as assistance to the region of origin) into a single tool, thus allowing the EU to manage them in a coordinated way. Although the idea of making PEPs a Community instrument was not taken over, the Commission raised it again in 2004 as a useful ‘emergency strand’ of wider resettlement action in certain circumstances¹⁸.

However, as we will see in the case of resettlement, PEPs may prove to be an instrument that contradicts the stated goal, namely the protection of migrants, for at least two reasons. Firstly, the system is based on the goodwill of the host states, which does not always stand the test of time. Indeed, in 2002 several hundred North Korean refugees who had managed to get into China arrived simultaneously at various Western embassies in Beijing seeking protection. The event was significant enough to

¹⁶ COM(2005)621 final.

¹⁷ COM(2003)152 final.

¹⁸ COM(2004)410 final.

warrant urgent dialogue between the diplomatic representations of the countries concerned. Far from agreeing to issue visas to ensure a 'protected entry procedure' in Europe for the migrants, the EU representatives decided... to step up security at their diplomatic missions to avoid any repeat of the incident. According to observers, since this event, known as the 'embassy crisis', it is now much more difficult for dissidents from any area to receive protection from foreign diplomatic representations in China.

Secondly, although the PEPs are supposed to complement the existing asylum systems (examination of claims at borders or in the territory of the Member States), there is a danger that these external processing systems might replace the latter over time, eventually prohibiting any form of access to EU territory other than these 'protected entry procedures', to which asylum-seekers and other migrants will be tied.

B - EXTERNALISATION - TRANSFER OF RESPONSIBILITY

As mentioned already, another form of externalisation is making third countries partially responsible for the EU's desired policy in the areas of asylum and immigration. To a large extent, this now forms part of the EU's Neighbourhood Policy. Where asylum-seekers are concerned, two options sum up this approach: the sharing of responsibilities, also known as 'burden sharing' and 'protection as close as possible to the regions of origin' or 'regional protection'. In the background of these two concepts, the idea is to achieve a more balanced distribution of the burden of asylum claims, which is currently concentrated in the European Union, by requiring countries outside the EU to take partial responsibility for it, in particular those countries that are situated near the countries of departure ('regional protection'). This trend reflects in fact the concept of a 'safe country', applied by many Member States and validated in Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status, even if the Commission is currently struggling to adopt a common list to this end.

This idea, based on a principle of solidarity, is not necessarily bad in itself, but because of the way it is implemented by the EU it seems to reflect not a desire for solidarity but a desire to cast off its responsibilities (burden shifting). Furthermore, it is founded on an imaginary premise, that of the threat of invasion: it would be necessary to react because the pressure of asylum claims on Europe would continue to grow and would eventually be unbearable. Yet the number of asylum-seekers has never been so low in the 25 EU Member States, nor in the other industrialised countries. It is half what it was 15 years ago. At the same time, claims are on the increase in some of the most impoverished countries, and it is obvious that the majority of population movements are going in a south-south rather than a south-north direction¹⁹.

Below we set out some examples of the mechanisms implemented by the EU for the purposes of sharing responsibilities with third countries, and the problems this transfer of responsibilities causes using the examples of Libya and Morocco.

¹⁹ UNHCR, *Number of asylum seekers halved since 2001*, March 2006.

1. Externalisation of asylum: Regional Protection Programmes (RPP) and refugee resettlement programmes

At the end of 2004 the European Commission decided to finance a feasibility study on the externalisation of procedures in the Maghreb countries of Libya and Mauritania.

Then, at the beginning of 2005, it decided to allocate funds to ‘strengthening hosting and protection capacities on the ground’, which, according to Mr Frattini ‘seems to be less costly than providing reception in refugee centres set up in EU Member States’. With a view to ‘a more accessible, equitable and effective international protection system in partnership with third countries and to providing access to protection at the earliest possible stage’, these programmes, by ‘sharing responsibilities’, seek to improve the capacities of third countries through which migrants and asylum-seekers pass for providing refugees with the protection they require. After North Africa, the Commission plans to develop this activity with the Great Lakes region of Africa and at the EU’s eastern border, especially in Ukraine, Moldova and Belarus. The aim, formally presented at the beginning of September 2005, is to provide a framework for the establishment of ‘regional protection areas’ near the countries exiles leave so that they can find first asylum there, with resettlement programmes that would allow, at a subsequent stage, negotiated contingents of these refugees to come from the countries of first asylum to the EU Member States²⁰. This is one way of adapting the requirements of the Geneva Convention on Refugees to Europe’s migration needs, although it is to be feared that the detention of immigrants may be one of the keystones of this filtering mechanism.

Certainly, the goal of helping these countries to make progress on respect for migrants’ rights and the right of asylum, as part of a genuine partnership policy, cannot be questioned as such. Current events, however, make this seem far from credible, in light of the EU’s distinct tendency to impose ever more limitations on legal access at its borders for foreigners who in principle should have the ‘right’ to cross its borders, particularly refugees, which suggests that these efforts are above all aimed at making them stay in future ‘safe’ areas.

Within the framework of this new partnership, the countries chosen to act as ‘waiting areas’ before EU visas are provided are far from being ‘safe’ in terms of the protection they are supposed to provide. According to the NGO Human Rights Watch, the Ukrainian authorities subject asylum-seekers and migrants to unacceptable treatment and numerous forms of abuse: extended detention, physical and verbal violence, and in certain cases forced return to their country of origin to face torture and persecution²¹. As regards Belarus, it was the EU Presidency itself that recently expressed its concern about the repeated human rights violations there²². If Ukraine and Moldova are partner countries within the framework of the ENP, it is important to remember that Belarus is not, as a result of its poor commitment to human rights, democracy and the rule of law.

²⁰ COM(2005)388 final.

²¹ Human Rights Watch, *Ukraine: Migrants, Asylum Seekers Regularly Abused*, News Release, 30 November 2005.

²² Declaration by the Presidency on behalf of the European Union on the ‘Anti-Revolution Bill’ in Belarus, Press Release, 2 December 2005.

Does this mean then that these reasons are not an obstacle when it comes to the fate of foreigners and asylum-seekers?

The gap between the reality and the RPPs suggests that the countries targeted have not been chosen, contrary to claims, because of their capacity to 'allow access to protection' for refugees, but because of their geographical position and their ability to act as a buffer and protect Europe from undesirables.

As regards the resettlement of refugees, which involves transferring them from their country of first asylum to a host state with a view to permanent residence in that state, there are similar concerns in relation to it becoming one of the facets of the European asylum system. An old and traditional tool of the global refugee protection system, resettlement is an aspect of international solidarity with the countries of first asylum. It was not conceived to replace the reception of asylum-seekers who arrived by themselves. However, the place given today to resettlement in the European programmes suggests, unfortunately, that it may eventually be used to justify the adoption of measures prohibiting the spontaneous arrival of asylum-seekers. Indeed, it is one of the pillars of externalisation and creates a situation whereby refugees are selected according to the needs of the Member States.

2. Readmission clauses and agreements

The return of irregular migrants is one of the EU's main objectives in managing migratory flows and readmission agreements can be considered to be the cornerstone of this objective. Signature of these agreements, which oblige partner countries to 'accept back' their nationals and in some cases immigrants of other nationalities who have arrived in the territory of one of the Member States illegally after having passed through their territory, is for that reason a decisive issue in the EU's relations with the countries it wishes to involve in its immigration policy. The Member States made widespread use of this system during the run-up to the 2004 enlargement to encourage the future members to secure their borders. Many such agreements were thus concluded between the signatories to the Schengen Convention and the CEECs (Central and Eastern European Countries) from 1990 before the Commission received a mandate to negotiate EU-third country agreements. The first such agreement, involving Poland – which has since joined the EU – was concluded in exchange for an end to tourist visas for Polish nationals, followed by the signature of an economic association agreement with the European Union. The EU extended this system to the south, incorporating in the cooperation agreement that governs its relations with the ACP countries (Africa, Caribbean, Pacific) a general clause on the readmission of illegal immigrants²³.

The content of an EU-Morocco readmission agreement has been the subject of negotiations for several years and seems to be blocked by the EU's demand that Morocco must agree to take back not only irregular nationals in one of the Member States but also all migrants who have passed through its territory before arriving in Europe.

²³ EU-ACP Cotonou Agreement, June 2000.

Morocco's wariness echoes the reservations expressed back in 2000 by the Euro-Mediterranean Human Rights Network (EMHRN), which was afraid that the principle of readmission forces 'third countries to strengthen border controls and tighten visa regimes and thus become buffer zones for Europe in relation to migrants and asylum-seekers'. The EMHRN also highlighted its concerns about the fate of those sent back under the agreements since very little is known about the South and East Mediterranean countries' standards of protection of political refugees²⁴. Six years later these reservations and concerns have not gone away. Indeed, when Spain decided to immediately draw up an 'Africa Plan' to tackle the influx of immigrants into the Canaries, it was with the primary objective of negotiating agreements on the readmission of illegal immigrants with six new countries (Senegal, Gambia, Cape Verde, Guinea Bissau, Guinea and Niger).

3. The Libyan example

The case of Libya illustrates clearly the issues involved in the 'external dimension of the asylum and immigration policy'. Libya has practically no contractual relations with the European Union on a political level. Although it was granted observer status in the Barcelona process in 1999, it is not part of the process²⁵, just as it is not on the list of countries covered by the European Neighbourhood Policy, since accession to the Barcelona process is a prerequisite in that regard. As a result, the European Union has no formal basis upon which to establish a partnership with Libya on migratory issues. Nevertheless, Libya's strategic position in the path of migrants clearly implies that the EU must look past this total absence of a discussion framework.

In April 2003, and again in 2004, missions were organised by the European Commission to assess the willingness of the Libyan authorities to cooperate on matters concerning illegal immigration. In its 2004 report the Commission notes that there are glaring human rights violations and states that it was unable to obtain any information or specific data on the procedures governing the expulsion of foreigners, learning only that expulsions are generally collective and involve sending foreigners back to their country of origin without examining their personal situation. It adds that Libya professes that it will only grant entry to economic migrants who come to Libya in order to earn money and then go home, and that it has no intention of introducing a policy to make a legal and formal distinction between asylum-seekers and economic migrants for fear of creating a 'draught'. In spite of this, during its camp visits (Libya has at least 20 closed foreigner camps) the mission met people who were seeking international protection and were even already recognised as refugees by the HCR in other countries. The Commission reiterates that Libya is not a signatory to the Geneva Convention on Refugees, that there is no cooperation agreement between Libya and the HCR, that the HCR office in Tripoli has no official status and that, as a consequence, international protection for refugees is not guaranteed in the country.

This information tallies with that of numerous observers: as far as the HCR is concerned, Libya cannot be considered a safe country for asylum-seekers. Amnesty International has confirmed that there are no guarantees in Libya with regard to

²⁴ Action Plan of the EMHRN adopted during its Fourth General Assembly, November 2000.

²⁵ See on this matter the report by H el ene Flautre MEP, Chairwoman of the European Parliament's Subcommittee on Human Rights, following a mission to Libya from 17 to 20 April 2005.

refugee rights. The European Parliament, for its part, has adopted a resolution in which it strongly condemns the Italian authorities' expulsions of migrants to Libya on several occasions in 2004 and 2005, stating that Libya practises 'arbitrary arrest, detention and expulsion' and that it is 'concerned at the treatment and deplorable living conditions of people held in camps in Libya, as well as by the recent massive repatriations of foreigners from Libya to their countries of origin in conditions guaranteeing neither their dignity nor their survival'²⁶. Several parliamentary missions have confirmed this analysis. More than 20 NGOs that defend the rights of migrants and asylum-seekers in various European countries and in Morocco have called on the European Union to 'defer all decisions on European cooperation with Libya on matters of immigration', adding that 'the ratification and the implementation of the international conventions guaranteeing human rights protection, such as the Geneva Convention (...) are, in this respect, an essential prerequisite'.

These numerous warnings did not prevent the European Union from engaging in 2005 in what it calls a 'long-term strategy' with Tripoli to combat illegal immigration from Libyan shores to its own. It consists of involving Libyan border guards and police in European sea patrols and establishing a working group to draw up a 'joint sea rescue action plan' to assist boats transporting illegal immigrants. What will happen to the people on these boats who may need protection? How will the illegal immigrants who are sent back to Libya be treated, given that we are aware of the conditions in which they have been detained, rounded up and deported? There are so many questions in respect of which the reassuring responses of Commissioner Frattini are far from convincing.

However, in its December 2005 communication on 'Priority actions for responding to the challenges of migration'²⁷, the Commission welcomed the 'significant progress made in EU-Libya relations' and announced the adoption of an EU-Libya Action Plan on illegal migration. Presumably it is within this framework that the EU could now work to prevent migrants from arriving in Libya since protection of the coasts to prevent them leaving Libya is not sufficient. In a report presented at the beginning of March 2006, the Maltese MEP Simon Busuttill called for cooperation with Libya to be stepped up in order to help manage the immigrants concentrated in the south of the country, and noted that there was a large number of immigrants from sub-Saharan Africa because Libya did not require them to have visas. We can therefore expect to see new obstacles being placed towards the south at the risk of forcing migrants onto even more dangerous routes.

4. The Moroccan example

For years Morocco has been the preferred point of passage for migrants in transit to Spain and then the rest of the European Union. The Integrated External Surveillance System (SIVE) set up along the Spanish coastline, involving joint Spanish-Moroccan patrols, and the increased protection around the Spanish enclaves of Ceuta and Melilla in northern Morocco (with 6-metre walls), which makes it more difficult to get into Europe, have since 2003-2004 temporarily halted a population of migrants, mostly from sub-Saharan Africa, waiting for the opportunity to enter. Between August and

²⁶ European Parliament resolution on Lampedusa, 14 April 2005.

²⁷ COM(2005)621 final.

October 2005 around 20 people died following the repressive measures of the Moroccan police officers who were trying to prevent a group of several hundred migrants from climbing over the walls. In the days that followed, hundreds of people were rounded up and deported either to their country of origin or to the country's southern border. At the same time, a group of 73 African migrants were returned to Morocco from Spain in accordance with a readmission agreement between the two countries. In both cases, the principle of non-refoulement, which prevents a signatory state to the Geneva Convention – i.e. Morocco – from turning away foreigners without assessing their need for international protection, was violated. Moreover, asylum-seekers and perhaps persons recognised as refugees were among those rounded up and deported.

The fate of asylum-seekers in Morocco is all the more worrying as the HCR, which has recently increased its presence there, has by no means a free hand. Its representatives are not allowed to visit the sites where the asylum-seekers are held and it is extremely difficult for the asylum-seekers to travel anywhere because of the law on foreigners. The situation of recognised refugees in Morocco is scarcely better. There are no integration provisions for them and they live in very precarious conditions. In September 2004 the HCR allocated €1 million to 'improving the capacity of North African countries of transit to intercept asylum-seekers and migrants'²⁸. The HCR's objective is to help countries to develop a national asylum system, train officials and support NGOs. It should be noted that one year later these goals were far from being achieved in Morocco, which today is still, in terms of the principles supported by the EU (Geneva Convention on Refugees, European Convention on Human Rights), an unsafe country for migrants and asylum-seekers, as demonstrated by the events in autumn 2005²⁹.

In its desire to transfer to Morocco, in particular through the readmission agreement it is negotiating with it, the management of migratory flows, which it is going to redirect towards it, the EU is running the risk of exposing the migrants it sends back to treatment that infringes human rights.

As far as possible asylum-seekers are concerned, the EU is saddling a country that does not yet have a national asylum system and does not yet respect the rights of those waiting for protection with a disproportionately heavy burden and jeopardising the safety of those concerned.

IV CONCLUSION

The Moroccan example is characteristic of the dangers that may be involved in the external dimension of the European Union's immigration and asylum policy. In that

²⁸ Minutes of the informal JHA Council meeting, 3 October 2004.

²⁹ See in particular: **AFVIC, Cimade**, *Mass refoulement and expulsion of migrants and asylum-seekers*, summary of a mission from **7 to 9 October 2005**; MSF, *Violence and immigration: report on sub-Saharan immigration in Morocco*, September 2005.

respect, two main criticisms emerge, which reflect the various aspects of this situation. Eurocentric in nature, the EU's cooperation with its neighbours to ensure the success of the border control policy focuses less on the reciprocal interests of the partnership than on its own objectives. It gives priority in its alliances to the geographical dimension to the detriment of respect for fundamental rights, which is why it is engaging with Libya and hoping to do the same with Belarus. It is also based on conditional aid, which is only granted if the states involved are willing to collaborate on its objectives. The priorities set out by the European Commission in November 2005, which should act as a guide for Euro-African dialogue, reflect this double trend all the more. In 2000 the European Commission called for mobility as a factor of development: *'The partnership approach should provide a framework for dealing flexibly with new trends in migration which are now developing in the world, with the concept of migration as a pattern of mobility which encourages migrants to maintain and develop their links with their countries of origin'*. Unfortunately, the solutions advocated today, which consist of moving the Union's borders further and further away by holding back immigration at its source, do not seem to be equal to the challenges and are contributing to the creation of an exclusion zone on its periphery. This image is no exaggeration, as demonstrated by the appearance in recent months in official language, as relayed by the press, of the concept of 'illegal emigration' to describe what possibly arises as a result of 'illegal immigration' or rather the simple fact of taking a route to leave one's country³⁰. However, neither this concept nor the practices it seeks to authorise (combating 'illegal emigration') hold any legitimacy with regard to the Universal Declaration of Human Rights (Article 13(2)), which stipulates that: 'Everyone has the right to leave any country, including his own, and to return to his country'. This is confirmed by several binding international texts, including the 1966 International Pact on Civil and Political Rights. By describing emigrants as criminals, the concept confirms the idea that it would be normal to put a large percentage of the African population under house arrest as the widespread requirement for Africans to have a visa to enter developed countries would prohibit any 'legal' prospect of travelling outside their own country.

It is as if the Union does not want to apply to third countries the lessons it is learning from its own experience. The Maltese example is a good illustration of this. It is common knowledge that the prospect of enlargement, with the pressure this put on the candidate countries to secure their external borders, led Malta, which is very exposed to arrivals of migrants by sea, to introduce provisions for migrants and asylum-seekers that violated their human rights. These included, in particular, automatic and prolonged detention in camps under conditions described as 'far below internationally recognised standards' by Parliament in its resolution on the situation with refugee camps in Malta adopted in April 2006. This resolution recommends calling into question the principle of Regulation (EC) No 343/2003 (Dublin II), which puts 'an intolerable burden on the countries situated in the south and east of the EU' with a view to introducing a fair mechanism for sharing responsibilities among the Member States. Nonetheless, in the context of its external policy, the Union is advocating an equally unfair mechanism

³⁰ A press release from the Conference of the Interior Ministers of the Western Mediterranean (CIMO), held in Nice on 11 and 12 May 2006, welcomes 'the efforts of the countries of the southern Mediterranean to contain illegal emigration to Europe'. Moreover, the Senegalese authorities announced that they had arrested in their own territory more than 1 500 'potential illegal emigrants' who were preparing to head to the Canaries in pirogues.

that puts the countries of North Africa in the position deemed unbearable for Malta: by putting pressure on third countries to take responsibility for asylum-seekers in transit in their territory, the EU is running the risk of them being abused or detained in camps like those that already exist in Libya. As far as the administrative detention of migrants and asylum-seekers is concerned, one of the 15 measures adopted jointly by the Spanish Government and the European Commission at the end of May 2006 to tackle the mass influxes into the Canary Islands relates to the establishment of 'reception' centres in the countries of transit, like the centre in Mauritania opened with great haste and run by Spanish officials.

During the 1960s the Europe under construction was able to implement a genuine policy of cooperation with its neighbouring countries (Turkey, Maghreb), reflected in association and cooperation agreements aimed at benefiting their nationals (in terms of movement, work, social rights) and, eventually, guaranteeing them prosperity that would diminish the causes of forced emigration. Since the 1990s cooperation has gradually become a tool of negotiation, or even blackmail, to ensure that third countries fall into line with the EU's migration policy. The change came at the Seville European Council in June 2002, during which the Spanish Presidency proposed penalising third countries that refused to collaborate in this regard by reducing development assistance. Although the initiative was officially rejected by the Heads of State or Government, a 'you scratch my back and I'll scratch yours' logic nonetheless prevail in the programmes to assist third countries with migration management proposed by the European Commission since then. It is now time to reverse this trend by putting respect for fundamental rights at the heart of relations between the Union and its neighbours.

RECOMMENDATIONS

1. Putting respect for fundamental rights at the heart of relations between the Union and its neighbours

Respect for fundamental rights and the international commitments of the Member States as regards human rights should not be limited to a mere reminder in principle in the agreements concluded between the EU and third countries, which is often contradicted in practice, particularly when it comes to operational measures.

Just as there is a 'migratory clause' in the agreements concluded between the EU and its partners,

- Parliament should ensure that respect for fundamental rights is a prerequisite of any programme implemented by the EU in a third country and any operational measure linked to the fight against illegal immigration.

Readmission agreements

This is particularly pertinent for readmission agreements, which are presented as an essential tool in all the EU's relations with its partners, including the Neighbourhood Policy. However, readmission agreements can result in the violation of the fundamental rights of the foreigners refouled, either directly in the first country of refoulement or in another country as a result of 'chain refoulement', without the EU taking any responsibility.

As it is unable to participate in the negotiations on the readmission agreements concluded by the EU, Parliament should:

- call for the establishment of a procedure to monitor the implementation of readmission agreements with regard to respect for the rights of the foreigners refouled, and

- examine the possible courses of actions open to them if their rights are violated following refoulement.

Detention

Numerous international texts provide a narrow framework for the administrative detention of foreigners and stipulate, in particular, that all persons deprived of their liberty must be treated with humanity and with respect for their dignity. The constraints are even stricter where the detention of asylum-seekers is concerned. The missions carried out in 2005 and 2006 by the LIBE Committee in Italy, Malta, Spain and France demonstrated that these rules are by no means respected in all the Member States. In order to continue this investigation into the integration of the external dimension of the EU's immigration and asylum policy,

- regular EP missions should be carried out to the places where foreigners are detained outside EU territory, be they centres run by third-country authorities within the

framework of their collaboration on the Union's border control policy (as in Libya) or centres administered directly by Member State officials (as in Mauritania).

2. Ensuring absolute respect for the right of asylum

Regional Protection Programmes

The Regional Protection Programmes should not be envisaged without first guaranteeing that the rights of asylum-seekers and refugees are fully respected in the countries concerned, which is not the case in some of the countries in which the European Commission has chosen to launch pilot schemes, such as Belarus or Ukraine. This requirement should *a priori* exclude any countries that are not signatories to the Geneva Convention on Refugees and any countries that, despite being signatories, clearly do not have the capacity or the will to respect its principles. It should also mean the exclusion of countries in which there are manifest and repeated violations of human rights or breaches of democratic principles.

Parliament should use its annual assessment of the situation of human rights in the world to identify those countries with which cooperation on migration and asylum issues cannot be envisaged without jeopardising respect for fundamental rights.

Resettlement of refugees

Linked to the Regional Protection Programmes, the resettlement of refugees must under no circumstances represent an alternative to the reception of so-called 'spontaneous' asylum-seekers, as is the case in Australia.

Parliament must ensure that in the discussions on a European asylum system, the resettlement of refugees continues to be a tool that complements the reception of asylum-seekers in the territory of the Member States.

Extending the 'Dublin' mechanism outside the EU

Through the combined application of readmission agreements and the concept of 'safe countries', the Member States may return foreigners to a third country without having assessed any claim for asylum on the grounds that they could have received protection in that third country. Not only does this mechanism put asylum-seekers at risk, it also places an excessive burden on the countries of transit. Applying the same reasoning it developed in its April 2006 resolution on the situation with refugee camps in Malta,

Parliament should, with a view to strengthening solidarity between partner countries, identify the means of opposing the EU's transfer of its responsibility for asylum-seekers to third countries that are often lacking in material and logistical resources, not to mention their capacity for the integration of refugees.

3. Establishing fair relations between the EU and its partners

UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

The EU's relations with third countries on migratory issues are characterised by the priority given to the Union's interests, and partners often have no choice but to submit to these interests. In order to remedy the imbalance in these relations,

Parliament should support the numerous initiatives aimed at encouraging the EU to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Member of Their Families, which entered into force on 1 July 2003 but has yet to be signed by a single industrialised country.

Ratification of this Convention would help to demonstrate the EU's willingness to establish with emigration countries relations founded on the reciprocal interest of both parties.

Neighbourhood Policy

Parliament was to a large degree sidelined during the negotiations on the implementation of the Neighbourhood Policy. Even today it need only be 'informed' of developments. The Euro-Mediterranean Parliamentary Assembly is not involved either, despite the fact that, where the Mediterranean region is concerned, the ENP is an extension of the Barcelona process and one of its political instruments. Parliament is, however, required to monitor the ENP's financial instrument (ENPI). In this context,

Parliament should pay particular attention to the funding proposals within the framework of JHA and ensure respect for a principle of human rights conditionality in all decisions on migration, asylum and border control.

Coordinating Parliament's action

In order to tackle the challenge posed today, for a global understanding of migratory issues, by the close interaction between the Union's foreign policy and cooperation policy and the measures implemented under the asylum and immigration policy within the framework of JHA,

it is vital to strengthen the links that already exist between the various parliamentary committees, in particular the Committees on Civil Liberties, Justice and Home Affairs, Development, Foreign Affairs, and Human Rights, through the creation of horizontal working groups.