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THE PRIME MINISTER

Dear Costas,

I am writing to ask for a very short discussion at the Brussels European Council, perhaps under the international issues item, of an idea we have been developing to help deal with the problems of refugees and migration. Our idea is designed to achieve better management of the asylum process globally through improved regional management and transit processing centres. We have raised the idea with Commissioner Vitorino, Ruud Lubbers and the International Organisation for Migration, and have had preliminary discussions about it with a number of colleagues.

I am enclosing for you, and our other colleagues, a paper which describes the idea. What I have in mind is a brief discussion in Brussels as a result of which, if everyone agrees, we might invite the Commission to do some further work on these ideas, in consultation with the UNHCR, with a view to making proposals for our June meeting in Thessaloniki.

I am copying this letter to our colleagues in the European Council, as well as to colleagues in the new Member States.

*Yours ever,
Tony*

His Excellency Mr Costas Simitis

NEW INTERNATIONAL APPROACHES TO ASYLUM PROCESSING AND PROTECTION

Background and Aim

We start from the premise that the current global system is failing because:

- support for refugees is **badly distributed**, with asylum seekers who make it to Europe frequently receiving support and legal costs exceeding \$10,000 a year, whereas the UNHCR spends an average of only \$50 a year on each refugee or other 'person of concern' around the world;
- the current asylum seeking system usually requires those fleeing persecution to **enter the West illegally**, often paying criminal organisations many thousands of dollars;
- between half and three quarters of those claiming asylum in Europe **do not meet the criteria of full refugees**, whereas according to the UNHCR there are 12 million genuine refugees in the world, most of whom stay in their own regions;
- individual countries experience **rapidly fluctuating and unmanaged intakes** of asylum seekers and refugees, often resulting in poorly resourced responses which cause problems for genuine refugees, and public concern about the numbers of unfounded claims.
- And because of these failures, public support for asylum is falling across the developed world.

The aim of the proposals in this paper is **better management of the asylum process globally**, reducing unfounded applications and providing more equitable protection for genuine refugees.

This new approach would complement the EU-wide approach to asylum called for at Tampere, and the work set in train **at Seville to tackle illegal immigration** by strengthening the EU's external frontiers, and tackling the causes of migration in source countries. We want to develop a system in which the vast majority of migrants who come to Europe do so through legal channels, including refugee resettlement routes, rather than arriving illegally, frequently with the involvement of criminal gangs, and then claiming asylum, irrelevant of whether they are genuinely in need of protection.

Concepts

We are developing proposals for better international management of refugees and asylum seekers through two complementary elements:

- 1) Measures to improve regional management of migration flows; and
- 2) Processing centres, on transit routes to Europe.

This new approach draws on the UNHCR's plans for modernisation of the international protection system ("Convention Plus"), through new partnerships between destination, transit and origin countries.

1) Improving regional management

In the long-term, our aim should be to deal more successfully with irregular migrants within their regions of origin, through: approaches to address the causes of mass population flows; greater protection to displaced people close to their home countries, and; development of legal routes by which genuine refugees can, if the situation requires, come to Europe. Such improvements would help those in genuine need of protection and enable European countries to manage flows of refugees more successfully. It would build on work already underway in the UNHCR (Convention Plus) and by the EU to pursue action in source regions, following the Seville European Council.

Regional intervention could have four elements:

(i) Working to **prevent the conditions which cause population movements**.

This includes: an increased focus on poverty reduction through effective use of development assistance targeted on the poorest countries; better conflict prevention in areas of instability; and enhancing the ability of the UNHCR and others to respond rapidly to emerging crises. The UK strongly advocates a smarter allocation of global development assistance towards the poorest countries, and the international community most recently made a Commitment to this at the Monterrey 'Financing for Development' Summit.

(ii) Working to ensure **better protection in source regions**: we should not be content for traffickers and facilitators to dictate who reaches our shores, and who benefits from our protection. The vast majority of displaced people (including refugees) remain in the regions close to their country of origin, often supported by the UNHCR. Yet the level of protection in some areas is relatively poor. Improving such protection would not simply benefit those who currently remain in the region: it should also reduce the incentive for the minority who do move on to Europe to do so (although it should be remembered that even higher levels of general protection will not adequately protect some individuals; those who consider themselves to be still in danger may flee protected areas). In particular, we consider that it would be important to work with the UNHCR to improve their capacity to respond rapidly to increased and sudden population flows.

(iii) Developing more **managed resettlement routes** from source regions to Europe; on a quota basis, as some European countries already have in place. Protection in the region will not be appropriate for all, particularly in the long term. It is important that at least an appropriate proportion of genuine refugees can reach Europe without the need to use criminal facilitators to arrive illegally. Significantly greater processing of asylum applications in regions, attached to resettlement programmes, would need to be developed in a way which avoided creating a 'pull factor' or attracting people to camps as an easy way to get to Europe, and which avoided agencies being inundated with applications.

(iv) Raising awareness and acceptance of **state responsibility to accept returns**, perhaps through new readmission agreements, or a new international instrument. This would require further work with the Commission, the UNHCR, the IOM and the Office of the Secretary General.

This is a long-term agenda. One of the key uncertainties is **whether protection in the regions should and could reach a level in which people could be moved from Europe to protected areas for processing** (in the same way as transit centres), for temporary protection or on a return route.

Such a level of protection would need to satisfy Member States' domestic courts that the rights of persons moved from Europe were being met in their region of origin. Generally, the further from Europe, the greater the challenge of providing such protection and moving people back to regions of origin. Moreover, if conditions in regional protection areas reached a very high standard they could act as a pull-factor for local people. The appropriateness of this solution will clearly vary from region to region.

In principle, however, better regional protection should allow more equitable management of flows of irregular migrants who want to come to Europe. It might also be possible to return to regional protection areas failed asylum seekers who have reached Europe but have been found not to have a well-founded claim to refugee status, but who can not be immediately returned to their country of origin. The aim would be to provide temporary support until conditions allowed for voluntary returns.

We are currently exploring these options further with the Commission and UNHCR.

2) Transit Processing Centres

In addition to better protection in regions of origin, it is worth considering medium term action to **deter those who enter the EU illegally and make unfounded asylum applications**. One possibility might be to establish protected zones in third countries, to which those arriving in EU Member States, and claiming asylum could be transferred to have their claims processed. These 'transit processing centres' might be

on transit routes into the EU. Those given refugee status could then be resettled in participating Member States. Others would be returned to their country of origin. This approach could act as a deterrent to abuse of the asylum system, whilst preserving the right to protection for those who are genuinely entitled to it.

Such a system might operate as follows:

- Asylum seekers arriving in the UK (and other EU member states), could be transferred to a transit processing centre (TPC), where their claims would be assessed. This process would allow participating countries to uphold their obligations under the 1951 Convention and ECHR;
- The centre would be located outside the EU. It could be managed by the IOM, with a screening system approved by the UNHCR. It could be financed by participating member states – but we would also wish to closely involve the European Commission;
- Those granted refugee status would be resettled within the EU, on a burden-sharing basis. Failed claimants could not remain in the TPC. The majority of those not granted refugee status would be returned to their countries of origin. If necessary, new or strengthened re-admission agreements could be developed to facilitate this;
- Those who could not be returned to their country of origin – because that country was not safe – might be given temporary status in the EU, until the situation improved in their country of origin. We could also draw on IOM's considerable experience with voluntary repatriation schemes.
- It is for consideration whether the centre would also receive illegal migrants intercepted en route to the EU before they had lodged an asylum claim but where they had a clear intention of doing so.

The IOM and UNHCR have expressed an interest in working up these ideas with Member States and the Commission. A key question will be to consider whether such a process should apply to all, or only certain categories of unfounded asylum applicants. But we envisage that there will always be certain categories of people, such as disabled persons or minors, who would never be sent to a transit centre.

Legal Framework

The 1951 Refugee Convention obliges states to provide protection, and not to return those with a well-founded fear of persecution. There is no obligation under the 1951 Refugee Convention to process claims for asylum in the country of application.

There is an additional obligation on 1951 Convention signatory countries, derived from the ECHR, to ensure that decisions under the asylum process do not expose applicants to inhuman or degrading treatment. Both the processing centres and the decisions taken in them would clearly have to conform to this requirement as a matter of policy and to avoid a successful challenge in the courts.

Next Steps

The UK is committed to taking forward new approaches to asylum and immigration with EU partners, the UNHCR, and the IOM.

The UK would like these issues to be raised for discussion at the March European Council. We hope that the European Council could ask the Commission, with the UNHCR and the IOM, to develop more detailed proposals with a view to endorsement at the Thessaloniki European Council in June. The UNHCR Standing Committee meeting on 7 March also provided a key opportunity to develop thinking and exchange ideas, as will the Informal JHA Council at the end of March.