International migration and relations with third countries: European and US approaches

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The foreign relations dimension to immigration management and control in the UK has not made the same impact on the thinking on policy makers as it has in other European states. It is only very recently that a body of thinking has emerged which has considered the advantages which might be gained from aligning aspects of domestic control policies to those of other countries: either near neighbours in Europe or the states in the sending regions themselves.

Two factors might account for the relative thinness of the foreign policy aspect. The first of these is the absence of a tradition of *labour recruitment,* which in such countries as Belgium, Germany, France, and the Netherlands, obliged government officials to enter into formal agreements with recruitment countries setting out the terms of residence and employment of their nationals in the respective host countries[1]. Labour migration into the UK was, in contradistinction, marked by a laissez faire approach, in which individual employers took advantage of the relatively open conditions governing the movement of Commonwealth citizens to the UK to either recruit directly in the sending countries, or from the pool of migrants who had entered in search of employment. In some instances these prospective employers included government departments (most notably the Department of Health, recruiting staff for employment in the National Health Service), but by and large government remained aloof from the process and felt no need to enter into formal arrangements with the authorities in the sending countries.

Secondly, until comparatively recently, the UK authorities felt that their immigration control system could function independently from collaboration with the governments of other countries. Having the advantage in this respect of an island geography, the integrity of UK borders was capable of being maintained, it was believed, by official based at ports of entry without the need for cooperation from immigration officials in adjacent countries.

The sweeping changes in the organisation of immigration control procedures in the European Union over the course of the last decade and a half has altered this latter perception of the UK being an exceptional country which is not reliant on close collaboration with its neighbours. The powerful pull factors operating with the single European economy have brought migrants directly from the distant borders of the EU states to the edge of the English Channel itself, and as the salutary experience of the Sangatte refugee camp emphasised, the maintenance of controls at the UK frontiers required a new awareness of what other countries were doing at their borders, many miles away.

Other factors enter into the equation which explains a new keen interest on the part of the UK authorities in the policies of other countries in respect of immigration matters. Developments post 9/11, with the particularly strong concern on the part of the New Labour government to align key aspects of its immigration and security policies with those of the United States, have made the UK a particularly strident voice in Europe on these issues. Taken together, these elements all go someway to explaining the new intensity of the UK government's involvement in the European immigration debates it had previously remained aloof from.

[1] Castles, Stephen and Kosack, Godula, *Immigrant Workers and Class Structure in Western Europe*, Oxford, 1985.

This said, there remains a crucial area of 'British exceptionalism' which continues to mark out separate interest which the government does not seem keen to compromise over, namely the economic dimension to managed migration policy. The UK authorities still exercise the opt-out rights provided in the Protocol to the Amsterdam Treaty on almost all issues concerning the migration of workers and self-employed persons. It is important to understand however, that non-involvement in measures which were intended (from the perspective offered in the Tampere Presidency conclusions at least) to facilitate economic migration is not inspired by a desire to maintain a more restrictive approach than that adopted by the rest of the EU. On the contrary, many aspects of the UK's current policies on managed migration show the New Labour government to be in the vanguard of countries willing to facilitate a greater degree of movement for economic purposes.

The crucial issue here is that the government has perhaps a uniquely strong belief that the interests which must be served by any system of managed migration should be those of the British economy and British employers first and foremost, and the policies which are adopted to achieve this end should be crafted exclusively in the UK. This point is important, and it will be stressed throughout this paper that it is this powerful sense of unique British interests being present and needing to be served at all points of negotiations with other Member States (and countries further afield) which drives UK government attitudes and explains it stances.

1. The Justice and Home Affairs agenda

The notion of entrenched British aloofness from the efforts of the European Community (and latterly the European Union) to coordinate policy might appear to be contradicted by the fact that the UK government was to the forefront of attempts at some degree of Member States coordination in the 1980s, particularly with regard to the formation of the Ad Hoc Group on Immigration in 1986. However, this took place at a time when a core group of Member States had already identified themselves as the pacesetters of common European policies, in the form of the Schengen group. The Schengen Agreement of 1985 was clearly destined to set the terms for the harmonisation of policy from that date onwards, and the UK's decision to remain apart from this group, because of its unwillingness to drop identity checks at internal frontiers, meant that it was in danger of losing all influence in the relevant debates. But simple participation in the Ad Hoc Group did not mean that all the issues could be easily resolved. It is arguable that the event which best demonstrated the ineffectiveness of this period of informal intergovernmental cooperation was the UK government's unwillingness (or inability) to compromise with Spanish interests on the vexed question of immigration controls at Gibraltar airport which doomed the Group's efforts to broker agreement on controls at the external borders of the European Community.

The Maastricht Treaty contained an attempt to overcome the shortcomings of ad hoc intergovernmental cooperation by introducing the justice and home affairs pillar and making the European Commission a partner of the Member States in the initiation of policy. It was not a conspicuous success in that it failed to provide any real mechanism which would allow deadlocks caused by adherence to the unanimity principle to be overcome. The opportunity to transfer the immigration and asylum component of the JHA pillar to the first pillar of the European Communities Treaty was taken at the first opportunity in the form of the creation of a new Title IV 'area of freedom, security and justice' by the Amsterdam Treaty. The general terms of the treaty were supported by the UK government, but the application of the new Title IV provisions were seen as problematic in that they intended the incorporation of the

Schengen agreements into Community *acquis*. The implicit requirement of Schengen, that unimpeded movement across internal frontiers be facilitated by the operation of common controls at the external borders, was viewed at the time as anathema by the UK authorities. The right to maintain controls over all people entering at UK ports of entry was regarded as non-negotiable by the government.

The Protocol subsequently negotiated by the government, allowing the rights to opt into specific Title IV measures as the UK saw fit, revealed the fact that UK exceptionalism remained virtually unchanged. Agreement to participate in any common measure was entirely subject to the assurance that it could be made to serve British interests rather than, as was presumably the case with other Member States, that it made a contribution to the efficient administration of the affairs of the EU and was therefore worth an agreement to compromise. The entire spectrum of relations with other members of the EU on immigration and asylum matters is viewed through the prism of 'British interests' and the government will remain apart from anything not meeting these standards.

Readmission and return policy

Though the UK has retained its essential ambiguity towards many of the key objects of EU common policies with regard to immigration and asylum, there is evidence that recent engagement with issues on the JHA agenda have brought about a re-evaluation of past practice. Its changing attitude towards the potential value of readmission agreements provides an example of where this is happening.

After its election in May 1997, the New Labour government carried out a comprehensive review of immigration policy, the result of which was published in a White Paper entitled 'Fairer, Fast and Firmer', in July 1998. It contained a section on readmission agreements which explained that:

The UK has not in the past negotiated any readmission agreements with third countries. Historically, we have not seen formal readmission agreements as an aid to returning failed asylum seekers or illegal immigrants because they can introduce an extra level of bureaucracy and the time taken to negotiate readmission agreements can be considerable. Instead, we have preferred to effect removals through bilateral contacts and in line with established international practice[2].

In reality the notion of 'bilateral contracts' is a rather grandiose term to describe the more informal agreements which existed with the immigration authorities of countries to which the UK was regularly returning individuals held to be in breach of immigration conditions. In most cases these countries were prepared to accept any person returned from the UK when there was prima facie evidence of them being nationals of the receiving country. On occasion this system had broken down; as in the case of India for a brief period in the late 1980s when cooperation was withdrawn as a means of protesting against perceived leniency on the part of the UK government towards the presence of Sikh separatist groups. However, difficulties of this nature were very much the exception rather than the rule.

It is likely that this informal procedure came to be seen as being less effective during the course of the 1990s, when a higher proportion of individuals with problematic immigration statuses came from countries which did not have Commonwealth links

[2] White Paper, *Fairer, Firmer and Faster – A modern approach to immigration and asylum*, London 1998, para. 11.19.

with Britain, and whose national authorities were less accustomed to working within procedures which had been laid down over a period of time by customary practice. The presence of these nationalities, typically North African and Central European, was itself seen as arising from Britain's gradual integration into a 'European' pattern of migration, rather than one which had been dominated by past links with Commonwealth countries. Receiving states which had become used to operating within the framework of long-established bilateral agreements with other European countries were more inclined to see difficulties in accepting the UK's expectations of ready and largely unquestioned obedience to its requirements to take back alleged nationals.

Because of this the New Labour government committed itself to looking more sympathetically at the use of readmission agreements. It noted how other countries were making use of both "compulsory and voluntary returns through negotiated agreements" and committed itself to examining their use by the UK authorities as well.[3]

Another element of the European dimension to the type of enforcement situations it increasingly had to confront came from the experience of people who did not have any form of passport or travel documentation. This itself was a product of irregular migration procedures adopted by some asylum seekers anxious to avoid the new penalties imposed on those transiting through other EU countries under the provisions of the Dublin Convention. The absence of a paper trail establishing the route taken to reach the UK rendered the Convention largely ineffective and generated additional difficulties in the case of failed asylum seekers in establishing which countries to return them to. The government expressed the hope in the White Paper that readmission agreements would allow "the provision of documents to people who have no documentation and where it has proved time consuming and costly to establish their identity and nationality."[4]

The UK used its Presidency during the second half of 1997 to promote discussion around these themes and to urge the Member States to come up with workable proposals for a regime of EU negotiated agreements. It lent support to the subsequent Austrian Presidency in its tabling of a draft readmission agreement. In a report to a Parliamentary European Scrutiny Committee on the draft readmission agreement, a Home Office Minister had explained in a submission dated 3 November 1998 that the government was concerned that the agreement should contain provisions which were "practicable and effective" and did not generate the layers of complex bureaucracy which it has always seen as a major drawback to formal procedures, as opposed to the 'contracts' it had relied on in its own dealings with third states. To achieve this end, the Minister's statement explained that the UK government had advocated that negotiations on any agreement be led by the representatives of Member States, rather than, presumably, an official of the European Commission.[5]

In its response to this statement the Committee made it clear that it had recognised that these strictures against 'bureaucracy' and the Minister's advocacy of "practicable and effective" procedures signalled a concern that, under the influence of EU officials more cognisant of the need to have regard for basic human rights considerations, the agreements would contain provisions which allowed individuals threatened with return an avenue of challenge. Its report queried the reasons for change to a draft of

[3] Ibid. para. 11.20.
[4] Ibid. para. 11.21.
[5] European Scrutiny, House of Commons Select Committee, Fourteenth Report, 31 March 1999.

Article 5 of the draft agreement, which at paragraph 3 had set out the obligation on the part of the state activating the agreement to avoid risk to the removed person, in either the state of destination or any other state of transit. The removal of the detailed reference to what might constitute such risk had, in the opinion of the Committee, weakened an important safeguard against persecution. It was clear that it was precisely changes of this nature which the UK government keenly welcomed[6].

Anecdotal evidence of the activities of UK representatives on the High Level Working Group on Asylum and Migration, which has responsibility for leading discussions on the shape and content of EU readmission agreements, suggests that the government has maintained its advocacy of procedures which maximise the power of the removing state to insist on acceptance, and minimise the possibility for either the individual being removed, or the intended receiving state to object. This hard-line stance is also borne out by analysis of the three bilateral readmission agreements – the first adopted by the British government – which were negotiated with Albania, Bulgaria and Romania in 2003. At the end of April 2004 these agreements had not come into force and the text had not been made available on the web sites of the Foreign and Commonwealth Office. The Immigration Minister answered questions on their content in the House of Commons on the 28 April and stated that:

"Both agreements [with Albania and Romania] provide that identity and citizenship or right of abode of a person is to be proved, or may be reasonably presumed through a number of valid documents specified in the agreements, or any other evidence acceptable to both Parties. The agreements set out how the request and response for readmission should be made, together with the timescale for the procedure."[7]

UK initiatives in the field of immigration and asylum policy

The example of readmission provides some insight into the way in which the UK has come to understand some immigration situations as being framed by developments in Europe and its response in attempting to adapt to aspects of the approaches favoured by other Member States which it had not supported in the past. The condition for UK support for common European policies in these circumstances is that they should be drawn in such a way as to maximise the scope for action by the UK authorities in much the same way as was done by the old readmission contracts. But the government has not limited its interventions to the issues which have been long-standing on the JHA agenda. It has also been proactive in attempts to set the agenda, and set out its own demands for highly restrictive policies. Three key interventions of this nature have concerned the 'Lisbon' proposals for a common EU interpretation of obligations derived from the Geneva Convention 1951; the Blair-Aznar initiative on tying development to cooperation with British and EU priorities on migration management; and the proposals for the creation of 'transit processing zones' and 'regional protection areas' as key features of European asylum policy.

After three years in office, the New Labour government had acquired a sense of a mission in Europe in respect of JHA issues. The task of dealing with asylum had become not simply a matter of improved coordination of policies, but fundamental reform of the post-war system of managing refugee movements itself. In June 2000, the Home Secretary, Jack Straw, attended the Lisbon European Council and set out a detailed criticism of the way the Geneva Convention on the Status of Refugees had been operating over the previous decade. For Straw and the British government, the end of the Cold War and the creation of greater opportunities to cross frontiers, and

[6] Ibid.
[7] Hansard Written Answers, 28 April 2004, column 1099W.

the increase in the numbers of people availing themselves of benefits of these changes, was prima facie evidence of wide scale abuse of the system. In the face of challenges of this nature, he called on the Member States to rethink their obligations under the Convention, and in particular the "obligation to consider any claims made within our territory, however lacking in substance […]"[8]

Straw claimed that there was a "contradiction at the heart of the operation of the 1951 Convention", in which attempts to apply the rule of law at the international level in dealing with refugees was leading to the undermining of the rule of law as it dealt with the management of migration flows. What Straw went on to outline as an attempt to overcome this 'contradiction' was what amounted to the implicit revocation of the obligation to consider asylum applications made in a Member State, and instead to switch the whole balance of procedures towards aid and assistance to refugees in the regions where persecution was occurring. The mechanism for doing this would involve a mechanism:

"[…] where the EU, at the level of the Council of Ministers, advised by the Commission, and with the help of UNHCR, identified countries and ethnic groups within them facing a high level of persecution, and agreed quotas for each EU state to consider applications for asylum made outside the receiving state."[9]

The speech was not expected to produce an immediate change in the way Member States operated asylum policies. It was referred to by UK officials for months afterwards as an attempt to "put down a marker" which would have the effect of setting the broad parameters for the way in which common EU asylum policies would be considered during the period of harmonisation which had been initiated at the previous Tampere Council meeting at the end of 1999.

Interventions of this nature have been regular features of UK government activities on JHA issues ever since. When instigated by senior ministers, including the Prime Minister, Tony Blair, they are seen as strategically focused attempts to force agendas which are characterised as being 'bogged down', in a direction favourable to the UK's radical thinking on the reform of international protection regimes. An example of this approach was seen in the letter from Blair to his Spanish counterpart, José Maria Aznar in May 2002, a month prior to the Seville European Council[10] in which he listed the following points as priorities which needed to be taken up with urgency by the EU:

- giving a remit for urgent action to strengthen the EU's borders. The UK is willing to play a strong part (while continuing to control our national frontiers). The UK/Italian initiative in the Balkans, which cut by 90% unaccounted arrivals a Sarajevo airport, shows just what we can achieve;
- agreeing a tougher approach with source countries on returns. We should benchmark the performance of third countries and be willing to use the EU's economic and financial clout with those which are not co-operating;
- agreeing to progress rapidly joint work on returns to Afghanistan; examining immediately the scope for Community funding to help encourage stronger EU frontiers and support the creation of an equitable asylum system; sending a strong signal that the slow progress on EU asylum measures is unacceptable.

[8] Speech by Jack Straw, Home Secretary, Lisbon, 16 June 2000.
[9] Ibid.
[10] Letter from British Prime Minister Tony Blair to the Spanish Prime Minister, José María Aznar, 16 May 2002.

> We need to provide protection for genuine refugees while discouraging abuse and "asylum shopping".[11]

In this stage of development of its thinking, the UK government was adding flesh and blood to its Lisbon initiative, this time emphasising a strong police component to the work of controlling refugee movements. The sense of urgency had been ratcheted up across Europe by the 9/11 terrorist attacks six months previously, which had produced the outcome, under the influence of the United States government, of associating terrorism with immigration and asylum issues.

The Presidency conclusions adopted by the European Council in Seville in June 2002 provided support for Blair's position by urging the inclusion of clauses "on joint management of migration flows and on compulsory readmission in the event of illegal immigration".[12] In the event of an "unjustified lack of cooperation" the EU will apply direct pressure through agreements on trade, aid and assistance coupled with political and diplomatic sanctions.[13]

Though these proposals seemed fairly definite, they were reported in the press as being much watered-down versions of the proposals set out in Blair's letter to Aznar.[14] This was a setback not only for the UK government, but also for the Spanish Presidency which had sided with the Blair approach in the weeks leading up to the Council meeting, with Aznar visiting the capital cities to try and broker agreement. The key issue hinged on the nature of the provisions which were to be included in the cooperation agreements with countries of origin to obtain their active collaboration in measures to tackle the transit of migrants through irregular routes. Whilst there was a consensus amongst the Member States on the need to secure cooperation from third countries in the management of migration flows, the use of coercive measures to secure this was objected to by an influential group of governments. The differences became clear at the meeting of the General Affairs Council on 17 June, with the UK, Spain and Italy supporting a 'tougher' approach advocated in Blair's letter, and a group of delegations led by Sweden, France and Portugal who objected particularly to the suggestion that EU credits might be cancelled, or even cooperation agreements revoked for countries reluctant to cooperate with hard-line immigration measures. In Seville the compromise was reached which held back from an automatic regime of punitive measures against non-cooperating third countries, but which would consider the possibility of sanctions only after a full assessment of the reasons, with action to be taken only on the basis of unanimity.[15]

The final example of strategic intervention by the UK government in JHA matters was provided during the course of the Greek Presidency with the attempt in March 2003 to obtain agreement on what came to be known as the 'New Vision' proposals. These were framed in a paper sent by Blair to the Greek Prime Minister, Costas Simitis, in March 2003. The six-page document began by reiterating issues very familiar from the Lisbon proposals. The terms of the Geneva Convention were in conflict with the modern conditions of refugee movements, causing an irrational distribution of resources, encouraging irregular immigration, and producing wide scale abuse of the system.[16]

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[11] Ibid.
[12] Paragraph 33.
[13] Statewatch report on *EU Presidency Conclusions at the Seville European Council 21/22 June,* http://www.statewatch.org/news/2002/jun/14seville.htm
[14] *EU rejects Blair's line on asylum* The Observer, 23 June 2002.
[15] Arteaga, Félix, *The balance of the Spanish Presidency with regard to Justice and Home Affairs of the European Union,* Liverpool, 2002, pp. 7-8.
[16] "New international approaches to asylum processing and protection", paper submitted by Prime Minister Blair to the Greek Presidency, 10 March 2003, henceforth "New Vision paper".

What was new in the proposals was a different strategy for gaining the collaboration of third countries in the task of managing flows. If the hallmark of the approach attempted during the Spanish Presidency was coercion and threats, New Vision offered engagement in the regions of conflict. Four points were listed as defining this attitude:

1. Working to prevent conditions causing population movements – "poverty reduction" through "effective use of development assistance", etc.
2. Better protection in source regions.
3. The development of managed resettlement routes.
4. "Raising awareness of state responsibility to accept returns" through readmission agreements or similar measures[17].

The intention behind these measures was to upgrade refugee facilities in the conflict areas to allow people to be "moved from Europe to protected areas for processing (in the same way as transit centres) for temporary protection or on a return route."[18] The concept of 'transit processing centres' was discussed, which were seen as "protected zones in third countries, to which those arriving in EU Member States, and claiming asylum, could be transferred to have their claims processed."[19] The centre would be located outside the EU, perhaps managed by the IOM, with a screening system "approved by the UNHCR".

Blair requested that these proposals be circulated for further discussion by the Member States. On this occasion the forthright opposition which had emerged from some quarters to the proposals made during the Spanish Presidency was made somewhat more muted by the intervention of UNHCR, which at the time was searching for policy innovations which might find favour with the countries of the North to allow for the renewal of their own mandate. The High Commission's own 'Convention Plus' proposals, which had been circulating for some months prior to 'New Vision', discussed the possibility of 'special agreements' which would allow "more effective and predictable responses to mass influx" and "development assistance targeted to achieve more equitable burden-sharing and to promote self-reliance of refugees and returnees […]"[20] Though there was a 'safe haven' (or 'regional protection zone') concept at the core of both 'New Vision' and 'Convention Plus', UNHCR began to distance itself from the Blair version by suggesting that these should be located in areas adjacent to the EU, with only refugees from agreed 'safe countries' being sent there.

The UK government's hopes that sufficient common ground might be established between the positions of the key stakeholders to allow an EU-sponsored pilot scheme to go ahead unravelled in the weeks prior to the Thessalonica European Council in June 2003. The European Commission reviewed the issues involved in a Communication to the European Council and Parliament published on 3 June.[21]

[17] New Vision paper, 2003, pp. 3-4.
[18] Ibid. p.4.
[19] Ibid.
[20] "'Convention Plus': Questions and Answers", UNHCR paper, January 2003.
[21] "Towards more accessible, equitable and managed asylum systems", COM(2003) 315 final.

Though taking pains to stress its agreement with key aspects of the UK government's analysis, the Commission paper described the scope for common EU policies on this issue as being defined by 'ten basic premises'. Most problematic amongst these for the Blair initiative was insistence on "full and inclusive application of the 1951 Refugee Convention, the non-refoulement principle, and the European Convention on Human Rights and Fundamental Freedoms."[22] Further:

"[…} a genuine burden-sharing system both within the EU and with host third countries, rather than shifting the burden to them. Any new system should therefore be based ***upon full partnership with and between countries of origin, transit, first asylum and destination*.** The necessary involvement of host third countries implies a long lasting process of confidence building and planning."[23]

The effect of these key reservations was the end of UK hopes for a pilot scheme backed by the full weight of the EU. The Commission recommended that further work for the EU should concentrate attention on protected entry and re-settlement schemes, but identified the possibility of funding from an EU budget line (B7-667 - 'Co-operation with Third Countries in the area of migration'), which would "support new approaches to asylum systems in third countries."[24] The UK authorities reported their intention to use this opening to promote work around the New Vision themes, involving where possible the few Member States which had given stronger support to its basic themes.

At the time of writing the indications from Home Office policy makers is that the UK government plans no major strategic interventions on common JHA asylum policies during the EU presidencies in 2004. In recent times its concerns have in any event switched from the elaboration of grand 'modernisation' projects to the task of driving asylum numbers down from the record level of 85,000 applications in 2002 by at least 50% - an enterprise driven by more narrowly domestic concerns arising from a sense of public dismay over asylum matters and the damage being done to its 'managed migration' strategy, which aims to facilitate the admission of higher numbers of economic migrants to meet the demand for skilled workers in the still-growing national economy.

It should be noted that meeting these domestic policy objectives has itself required the close cooperation of other EU Member States, a development which continues to alter the self-image of the country as one capable of safeguarding its frontiers without the need for intense cooperation with other countries. New Labour's success in the past year in halving asylum applications is attributable to a number of factors, not least the cut of around 20% which all members states have noted during the same period. The additional reduction recorded in the UK figures has arisen from measures undertaken with the cooperation of the French and Belgian authorities aimed at securing the Channel from immigration pressures, in particular the closure of the Sangatte refugee camp in December 2002 and the introduction of 'juxtaposed controls' operated by British immigration officials on French and Belgian territory.

In the meantime the New Vision initiative has evolved into an attempt to negotiate what are termed 'migration partnerships' with specified third countries, which are intended to function as a bargaining arena in which immigration control objectives are traded for refugee and development needs in the regions of conflict. Discussion of these objectives can be considered under the next heading.

[22] Ibid. p.12.
[23] Ibid. p.13, original emphasis.
[24] Ibid. p.23.

2. Migration for development

If the question of immigration and relations with third countries appears on the agenda of the Home Office primarily as a matter of management, control and security, other departments of government have a different focus. The Department for International Development (DFID) for example has engaged with the issue from the perspective set out in a government White Paper, "Eliminating World Poverty: making globalisation work for the poor", published in December 2000.[25] This has required the department to improve its understanding of migration as it relates to the world's poor.

Historically, the overseas development aid (ODA) programmes administered by DFID have not reflected a strong concern with immigration issues. Eight of the top ten recipients of ODA in 2002 were Commonwealth countries with whom the UK has had longstanding commitments rooted in broader concerns about the political and economic development of particular regions (Table 1). The presence of five southern African countries in this list, for example, is accounted for the importance the UK government attaches to stability and growth in this region during the period of post-apartheid reconstruction. Of the Commonwealth countries, five (India, Tanzania, Bangladesh, Ghana and Uganda) have contributed significant migration flows to the UK. It is difficult to gauge the extent to which issues about readmission have affected the thinking of the UK authorities in each case. In the main, the business of negotiating the return of nationals to each country has been left to the semi informal 'bilateral contracts' mentioned above. In the case of Tanzania, recent concern on the part of the immigration authorities about the return abroad of, particularly, failed Somalian asylum seekers to safe countries in the East Africa region has given rise to the idea of a 'migration partnership' (discussed below) with the government in Dar es Salaam. The relatively significant scale of ODA to this country makes the issue of the use of 'financial clout' to obtain agreement a distinct possibility.

The two non-Commonwealth countries in the top ten list, Serbia and Montenegro, and Afghanistan are there because of their geo-political importance combined with development needs during periods of post-war reconstruction. In both cases the government has put in place voluntary return programmes which provide assistance to nationals considering return.

Such return programmes have a very recent origin in UK policy thinking. The idea was discussed in the 2002 White Paper very much in the context of overall removal policy. Building on an existing small scale programme - principally directed towards the return of Kosovans, the government saw potential for a procedure which would link into the early identification of individuals as candidates for voluntary return during the course of a new induction procedure planned for asylum seekers.

In practice the programmes have not yielded the substantial increase in removals which the government had hoped for. With the cooperation of the International Organisation for Migration and UK-based refugee charities, it had been hoped that early returns might have been possible for refugees from Afghanistan and Iraq after the conclusion of the invasion stage of western military operations in those countries. In October 2003, the Home Office announced £1 million funding for UNHCR to

[25] White Paper, *Eliminating World Poverty: making globalisation work for the poor*, London 2000.

establish a return programme for Afghans who wished to return home.[26] The framework for the operation of the programme had emerged from negotiations with the Afghan Transitional Administration and the UNHCR which had been expressed in a Memorandum of Understanding agreed in October 2002. Voluntary returns under the terms of that agreement had commenced, alongside compulsory returns in February 2003.

The volume of returns in both categories since this date has been relatively modest, with 460 being recorded for the period January-September 2003, with just over 100 in the voluntary assisted return programmes.[27] This figure should be considered against the total of nearly 24,000 Afghan asylum seekers who had arrived in the UK during the period 2000-2003, of whom 16,000 were granted either Geneva Convention recognition or the de facto status of 'exceptional leave to remain'.

Table 1: Top Ten Recipients of gross ODA/OA in 2002 (USD million)[28]

India	271
Serbia & Montenegro	238
Tanzania	198
Mozambique	117
Bangladesh	113
Ghana	111
Uganda	92
Afghanistan	83
Zambia	62
Malawi	61

DFID's involvement in designing these voluntary return programmes does not appear to have been great. By and large it has exhibited scepticism towards tying immigration objectives, such as the voluntary or forced return of individuals, to its ODA strategies. It has however become increasingly aware of wider policy thinking on the relationship between migration and development, and the wider implications this have for its programme for combating global poverty.

In a recent memorandum to the House of Commons International Development Committee, DFID set out its understanding of the main issues relating to immigration and development. Using an approach which makes use of the concept of "sustainable livelihoods", the department is inclined to view migration as one of the strategies adopted by the poor to cope with risk and diversify livelihood. It is particularly concerned to understand more about the type of migration which probably involves the largest numbers of people, but is seldom captured in official statistics – namely the seasonal internal migrations of the poorest sections of society.

A position which DFID seems to have adopted with some definitiveness, and which can be seen as an implicit challenge to the view of the Home Office in respect of the reduction of migration pressure by tackling poverty, is that increased living standards will not in themselves lower levels of migration. As it says in its memorandum:

[26] Home Office press release, *Supporting international refugee work and helping Afghans return home,* reference: 297/2003, 28 October 2003.
[27] *Return to Afghanistan,* Dominic Casciani, 29 December 2003, http://news.bbc.co.uk/1/hi/magazine/3337485.stm
[28] Source: OECD.

Evidence suggests that migration rates in the poorest countries tend to be less than in lower middle-income countries, and that migration rises until a certain income threshold is reached. This is because increased income is not immediately matched by more opportunities domestically. This phenomenon is known as the "migration hump".[29]

The traditional understanding of "brain drain" effects of migration on development is also questioned. Drawing on the results of research commissioned from the International Labour Organisation (ILO), DFID notes that "the positive feedback effects [of migration] can often outweigh any initial negative impacts of skilled migration." This indicated a need to adopt proactive policies which could enhance these positive feedback effects, such as "encouraging return migration, tapping diaspora networks and promoting the productive use of remittances."[30]

The memorandum also criticised the tendency of developed countries to concentrate their interest in migration on the movement of skilled workers, and ignoring the benefits which accrue from the movements of those lacking formal qualifications. The participation of unskilled workers in agricultural production, construction, and the service industries is singled out as issues which needs to be addressed by appropriate policies.

DFID concerns have played a role in the work of other government departments which occasionally address migration issues. The Department of Health, which runs the National Health Service (NHS), has adopted a Code of Practice for NHS employers involved in the recruitment of health service professionals from abroad. This requires that developing countries should only be targeted for recruitment if bilateral agreements have been reached with the governments concerned. These agreements require that there be "extensive opportunities […] for individuals in terms of training and education and the enhancement of clinical practice."[31] Agreements of this sort have been reached with India and the Philippines, and Memorandums of Understanding with South Africa and Indonesia to ensure "the ethical recruitment of healthcare personnel from these countries."

The department's understanding of the role of remittances in aiding development draws extensively on the research that underpinned the World Bank's 2003 Global Development Finance Report. Noting the large scale of the level of financial transfers, their stability over time, and their focus on the poor in developing countries, DFID gives a commitment to the development of policies which will increase this flow and make it into an even more effective development tool. These could include the use of tax breaks and incentives to encourage the productive investment of remitted income, the greater use of formal financial services (requiring a significant reduction in transfer costs), and the enhancement of the voices of migrants in the shape of the policies in which they live and work.[32]

An example of the ways in which DFID's thinking is influencing policy development emerged from the regional conference which it organised in Bangladesh in June 2003 on "Migration, development and pro-poor policy choices in Asia". Papers were produced which considered these issues in the context of Vietnam, Pakistan, India, China and Bangladesh. The memorandum described the conference's main

[29] DFID, *Memorandum to the Select Committee on International Development*, November 2003, para. 11.
[30] Ibid. para. 14.
[31] Ibid. para. 18.
[32] Ibid. para. 23.

conclusion as being "the relationship between migration and poverty was critical", and "needed to be better understood [so] that judicious policy interventions could maximise the benefits and minimise the risk to men and women who migrate internally and internationally".[33]

The department acknowledges the contribution of diaspora networks to development, as a source of skills, knowledge and ideas, as well as remittances. The contributions of various international agencies (UN Development Programme's TOKTEN initiative, the IOM's MIDA programme, and the South African Skills Network Abroad (SANSA)) are cited as examples.[34] The UK authorities themselves have only just begun to consider their role in promoting the engagement of diasporas resident in Britain. In oral evidence offered to the Select Committee, a senior DFID policy official described how this area of work was commencing in the form of a "new country assistance plan for India".[35] Indian community organisations were being consulted with on this, but she stressed that this was an initiative still in the very early days of development.

DFID has also given some support, in the form of strategic grant assistance to a network of black and minority ethnic communities with an interest in international development, called Connections for Development (CfD). Whilst welcoming support of this nature, NGOs have criticised DFID for its failure to integrate diaspora organisations more closely into their key strategies. One such NGO, the African Foundation for Development (AFFORD) has called for "DFID to report regularly on such activities, specifically not just on CfD's role in broadcasting DFID's messages to its constituencies, but also on what DFID is learning from its engagement with CfD and ways in which the organisation is changing its way of doing business as a result."[36]

The department's efforts to engage with diaspora organisations has been criticised for being sporadic and piecemeal. AFFORD's memorandum to the Select Committee notes that African communities in the UK come from 35 countries on the continent. Because of this "considerable scope exists to engage more broadly around individual country programmes, sector-specific agendas, etc."

3. Migration, mobility and trade

The issue of the General Agreement in Trade in Services (GATS) also figures in the thinking of DFID. The "Mode-4" temporary movement of natural persons for the supply of services has been seen by some as holding out potential for the widening of the scope for migration for self-employed service providers. However, this has been hindered by the restricted definition of services used by most developed states to those related to investment. Developing countries, on the other hand, have favoured a wider scope for Mode-4 movement, encompassing transport, tourism, health and care services, and contract cleaning. They see advantages in arrangements which facilitate the export of surplus labour, and anticipate gains from the transfer of income to the home country from workers abroad. The gap between the two groups of countries on these issues has remained wide, and little progress has been made in recent times in reaching common agreement.

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[33] Ibid. para. 33.
[34] Ibid. para. 36.
[35] Select Committee On International Development Minutes of Evidence, Q3, 2 December 2003.
[36] Memorandum to the Select Committee Inquiry, AFFORD, 2004.

The DFID memorandum expresses the view that the context of negotiations over Mode-4 might now be changing under the influence of "ageing populations, shrinking workforces, and growing skills gaps in key sectors […]"[37] It draws attention to the evidence from some studies that a raising of quotas on the part of developed countries to allow 3% of their labour forces to be made up of temporary workers would add $150 billion to the total gains to be shared by both sending and receiving countries. The claim is made that the UK's representations on these issues has emerged from a process of inter-departmental consultations in which DFID has played an active role, and which has resulted in policy "widely viewed as being amongst the most progressive within the WTO […]"[38]

To summarise these points, it is clear that DFID has emerged over the course of the past year or 18 months as a wing of government which is attempting to grasp something of the more complex reality of migration processes than is found in the traditional immigration control authorities operating within the structure of the Home Office. At the level of a general perspective it has assimilated many of the concerns registered by independent critics of government policy, and has accepted that migration has to be understood as, amongst other things, a strategy adopted by the poor to both survive and gather more of the resources needed to make progress in the globalised conditions of the modern world.

It is likely that these insights lead it into clashes of varying degrees of intensity with the mainstream immigration control authorities represented by the powerful Home Office. The former Secretary of State, Clare Short, gave some indication of the areas where such tensions exist on the occasions mentioned above, when she criticised the clear threat used by Prime Minister Blair to use aid policies to extract cooperation from third country governments who were otherwise unwilling to go along with the demands of the developed countries. In attempting to get an indication of how the internal debates about these issues might develop in the period ahead, a brief section in the DFID memorandum, and the views of the current Secretary of State, Hilary Benn, as expressed during oral evidence to the Select Committee are of interest.

The memorandum attempts to describe DFID's interactions with other government departments. It acknowledges the centrality of the Home Office authored "Secure Borders, Safe Haven" White Paper of 2002 to the structure of its thinking, and particularly the role described for 'managed migration' as the means to recruit migrant workers.[39] As far as relations with the EU are concerned, the development perspective is subordinate to the "overall coherence of the Community's external policies and actions".[40] Given the skewing of these policies towards the security and control agenda since the Seville Council in 2002, this suggests a low priority for explicit development concerns.

In the public context of the Select Committee hearing at least, the oral evidence of the Secretary of State does not suggest that he is intending to mount a fierce fight for policies which give any priority to the interests of either migrant workers or developing countries. The question of rights for migrants, clearly important in the memorandum's good intentions in relation to establishing a stronger voice for immigrants and diaspora organisations, falls away to an affirmation that the government has 'got the balance right' between the need for immigration control and

[37] DFID op. cit. para. 19.
[38] Ibid. para. 20.
[39] Ibid. para. 39.
[40] Ibid. para. 40.

the rights of migrant workers.[41] The point that had been made by NGOs submitting evidence on this point was that in the current system of immigration controls, the rights of migrant workers fell a long way short of those provided for in such international instruments as the UN Convention on the rights of migrant workers and their families, which the UK has, in common with other EU governments, refused to sign.[42]

It is perhaps not surprising that, as a relative newcomer to the immigration debate, DFID remains a minor player in comparison to the dominant thinking of the Home Office. The police and security perspective has, for the time being at least, come to prevail over most of the policy work on migration and this is much more in accord with the thinking of the Prime Minister and his key group of influential ministers, and this is likely to remain the case for some time.

Nevertheless, DFID's theoretical perspective does diverge from the government mainstream on a number of important issues. The battles to be waged to increase the influence of this approach will probably depend on the extent to which NGOs and other expert groups, and the wider civil society beyond, are capable of developing and promoting their viewpoints and making them relevant to the type of politics which animates mainstream society.

The dimension of foreign policy has produced complexities for the UK government in the field of immigration policy which had never been present in the days when the matter was regarded as being a simple question of controlling movement as national ports of entry. It has involved taking UK policy makers out into negotiations with fellow Member States of the EU; an experience which they have frequently found problematic. The different traditions which exist amongst EU countries on immigration have resulted in a wide range of perspectives and differing priorities which have made negotiations complex and slow.

Under the current government, an attempt to deal with the frustration which has arisen has taken several forms. Firstly, it has produced the strategy of securing opt-outs across a wide range of policy initiatives. Secondly, the view has been formed that the pace of change can be forced on key issues by major interventions made with the authority of the Prime Minister or senior government representatives, on the lines of the Lisbon speech, the Blair-Aznar letter, and the New Vision initiative. This style of politics is fraught with hazards within the EU however, and it is difficult to identify any success in achieving the progress that was presumably intended.

In terms of more mundane policy initiatives, the government has been successful in impressing on an already receptive EU audience its view that immigration control priorities changed fundamentally as a consequence of 9/11. The increase of activities aimed at interdicting irregular forms of migration and eroding rights provided for in the Geneva Refugee Convention has come from the negotiations undertaken as a part of the Tampere process. Related to this, but with specific benefit for the UK government's programme, bilateral agreements with other Member States have made UK borders less accessible for irregular migrants over the past year.

[41] Oral evidence, Q348, 20 April 2004.
[42] See the memorandum of evidence submitted by Anti-Slavery International.

Parallel to this restrictive immigration control agenda there has been the new debate formulated around concerns about globalisation, the relief of global poverty, sustainable livelihood strategies, the value of remittances, the network gains of migration, and the acceptance of the immigrant diaspora as legitimate stakeholders in managed migration policies. The basic premise behind much of what is asserted from this side of the discussion does not sit comfortably with the traditional immigration control agenda. However, the government departments which have come to think in terms of the wider benefits accruing from migration are often disadvantaged by their relative newness to the debate, and their low priority in the hierarchy of influence. This is perhaps the central problem of DFID today, as it attempts to elaborate the importance of migration to a strategy for development.

These differences are not going to be resolved solely by discussion and debate amongst the policy makers. A role for migrant rights NGOs, other civil society groups, diaspora organisations, as well as the authorities of developing countries clearly exists and needs to be better defined in the period ahead. If this can be done, the discipline of 'foreign policy' might provide a better framework for making progress towards an equitable system of managed migration than either the UK government, or of any other Member State, is currently operating with.

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