**BIA CONTRIBUTION TO UK RESPONSE TO THE REPORT ON THE FREEDOM OF MOVEMENT OF WORKERS IN THE UNITED KINGDOM**

Thank you for your e-mail of 15 January enclosing the report on the Free Movement of Workers in the United Kingdom in 2006 and the consolidated European report on the Free Movement of Workers in Europe in 2006 and offering us the opportunity to comment on these.

The United Kingdom Government has long been a champion of EU enlargement, and believes it is beneficial to the whole of the European Union as well as the UK in particular. The United Kingdom remains in principle committed to facilitating the freedom of movement of workers in accordance with the EU Directive and we are satisfied that we have correctly transposed the EU Directive 2004/38/EC into our domestic legislation, namely the Immigration (European Economic Area ) Regulations 2006.

We are disappointed by the tone of the United Kingdom Report which, in our view, exceeds the scope of its purported remit, namely to focus on freedom of movement issues, and in sections is a commentary on the exercise of the United Kingdom's Immigration Rules. We note that it has been written for the European Commission by independent experts who express personal views that do not necessarily reflect the views of the Commission.

We would take the opportunity to flag up here that some of the critiques in the reports on the United Kingdom's domestic implementation of the EU Directive in key areas have since been addressed in the domestic courts e.g. Chen and self-sufficiency (W (China) and X (China ) v Secretary of State for the Home Department [2006] EWCA Civ 1494); rights of third country national extended family members under EC law ( KG and AK (Sri Lanka) v Secretary of State for the Home Department 2008 EWCACiv13; and the UK's approach to permanent residence and interpretation of the provisions of Article 16 (1) (GN (2007) UKIAT 00073). The Border and Immigration Agency's interpretations have been upheld by the courts. The relevant judgments are attached as separate documents by way of background.

The United Kingdom Government acknowledges the strong contribution that migrants make to the delivery of public services and the economy of this country; playing an important role in sustaining economic growth in the UK and filling specific skills shortages in the public sector, particular the NHS.

Data from the Workers Registration Scheme, published quarterly, shows that most Accession state workers are taking employment in sectors (e.g. agriculture, hospitality) where employers find it difficult to recruit workers from the resident workforce. They are also contributing to the delivery of services- for example more than 10,000 Accession state workers are registered as employed in the care sector.

The United Kingdom Government has however, as the Commission is aware, decided to maintain the restrictions on the labour market access of migrants coming to the UK from Romania and Bulgaria (the A2).

Following a review, it has been decided current arrangements will stay in place for A2 nationals until at least December 2008 when there will be a further review. Existing transitional arrangements providing full access to UK labour market for A8 nationals remain in place.

Finally, in reviewing the report we note that a number of the Border and Immigration Agency websites links provided are now out of date. For ease of reference we attach here the current website links.

Page 1073 Draft legislation, circulars etc
http://www.bia.homeoffice.gov.uk/eucitizens/

Page 1073 Equal treatment in access to employments (e.g. assistance of employment agencies

http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/ecis/

http://www.bia.homeoffice.gov.uk/eucitizens/

Page 1118 The main website for information issued by the UK government for EU nationals working in the UK is:-

: http://www.bia.homeoffice.gov.uk/eucitizens/

We remain, of course, open to discuss areas of difference in the United Kingdom's approach with Commission colleagues.