



Australian Permanent Mission  
to the United Nations  
Geneva

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Mr Karim Ghezraoui  
Chief Officer  
Special Procedures Branch  
c/o Office of the High Commissioner for Human Rights  
United Nations Office at Geneva  
8-14, avenue de la Paix  
1211 Geneva 10, Switzerland

Dear Sir

I refer to the joint communication from the Special Rapporteurs on the human rights of migrants, and on torture and other cruel, inhuman or degrading treatment or punishment, concerning the alleged violation of the principle of non-refoulement by Australian authorities in returning a group of 46 Vietnamese asylum seekers to Vietnam.

In response to this request, the Australian Government provides the following information.

*1. Please provide any additional information and any comment or observation you may have on the above mentioned allegations.*

The 46 Vietnamese nationals were on board a Vietnamese-flagged vessel bound for Australia, which was intercepted by Australian officials on 20 March 2015. The 46 individuals neither held Australian visas nor engaged Australia's non-refoulement obligations. The Australian Government therefore worked with the Government of Vietnam to return all 46 Vietnamese nationals to Vietnam on 18 April 2015. The Australian Government strongly rejects any assertion that its actions constituted a breach of international law.

*2. Please provide information on the 46 Vietnamese asylum seekers and on the respective reasons for their travel.*

All persons on board the vessel on 20 March were Vietnamese nationals. This group largely comprised fisherpersons and their dependants, who provided a variety of reasons for their travel. They gave economic reasons for travelling on the vessel which was intercepted on

20 March, including: that their fishing vessels had been harassed by Chinese boats; that they were accompanying relatives on the journey; that they were going fishing; and that they were travelling to Australia to seek a better life or to earn money and repay debts.

*3. Please provide detailed information on the screening procedures carried out at sea, including the grounds on which the respective requests for refugee status determination were denied.*

All persons intercepted were assessed, following on-water interviews of all adults, to determine whether they engaged Australia's non-refoulement obligations. None of the 46 was found to engage Australia's non-refoulement obligations. Furthermore the Australian Government received assurances from the Vietnamese Government regarding the treatment of the individuals.

*4. Please explain how such screening procedures are compatible with international standards, including those referred to in the annex.*

The Australian Government maintains that the return of the 46 people complied with Australia's international obligations under relevant conventions, including those referred to in the annex. The persons on board the vessel were assessed at sea by Commonwealth officers trained to conduct assessments in a manner compatible with relevant international standards, with the assistance of qualified interpreters.

*5. Please provide information on whether access to legal representatives has been facilitated by the authorities. If not, please explain why;*

None of the 46 people requested access to legal representatives.

*6. Please provide information on steps, if any, taken to monitor the situation of the 46 asylum seekers in Vietnam and ensure that they are not subject to ill-treatment and/or reprisals.*

None of the 46 people on board the vessel were found to engage Australia's non-refoulement obligations. They were returned safely to Vietnam, with Australian Government officials present at their arrival.

The Vietnamese Government informed the Australian Government on 22 April 2015 and again on 2 June 2015 that all 46 of the people returned were safe and well.

The Vietnamese Government informed the Australian Government on 22 April that UNHCR would be welcome to interview any of the 46 people to satisfy itself that they have not been subject to ill-treatment and/or reprisals since their return. The Australian Government passed this information to UNHCR's (then) Acting Regional Representative, based in Bangkok. The UNHCR Office in Bangkok confirmed that it would convey this information to Headquarters.

7. *Please explain the measures taken by the Australian Government, in relation to assessments carried out at sea, to ascertain that extraditions in violation of article 3 of the CAT do not take place in the future, including the investigation, prosecution and punishment of those responsible for the allegedly illegal extradition of the 46 asylum seekers in question.*

The Australian Government strongly rejects the assertion that the return of these persons to Vietnam constituted a breach of article 3 of the CAT. There is no evidence that the persons who returned to Vietnam have been subjected to torture since their return to Vietnam, nor were there substantial grounds for a belief that they would be subjected to torture at the time of their return to Vietnam. The return was lawful as a matter of Australian domestic law and was not inconsistent with Australia's international obligations. As such the question of investigation, prosecution and punishment does not arise.

As requested, the letter from the Special Procedures holders has been brought to the attention of the Foreign Minister, the Hon Julie Bishop MP.

Yours sincerely



Ian McConville  
Chargé d'affaires