



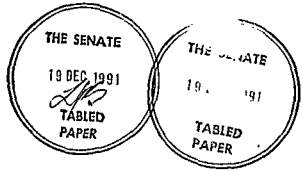
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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
JOINT COMMITTEE OF PUBLIC ACCOUNTS

REPORT 313

CONTROL OF VISITOR ENTRY

December 1991



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JOINT COMMITTEE OF PUBLIC ACCOUNTS

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DUTIES OF THE COMMITTEE

Section 8.(1) of the *Public Accounts Committee Act 1951* reads as follows:

Subject to sub-section (2), the duties of the Committee are -

- (a) to examine the accounts of the receipts and expenditure of the Commonwealth including the financial statements transmitted to the Auditor-General under sub-section (4) of section 50 of the *Audit Act 1901*;
 - (aa) to examine the financial affairs of authorities of the Commonwealth to which this Act applies and of inter-governmental bodies to which this Act applies;
 - (ab) to examine all reports of the Auditor-General (including reports of the results of efficiency audits) copies of which have been laid before the Houses of the Parliament;
 - (b) to report to both Houses of the Parliament, with such comment as it thinks fit, any items or matters in those accounts, statements and reports, or any circumstances connected with them, to which the Committee is of the opinion that the attention of the Parliament should be directed;
 - (c) to report to both Houses of the Parliament any alteration which the Committee thinks desirable in the form of the public accounts or in the method of keeping them, or in the mode of receipt, control, issue or payment of public moneys; and
 - (d) to inquire into any question in connexion with the public accounts which is referred to it by either House of the Parliament, and to report to that House upon that question,
- and include such other duties as are assigned to the Committee by Joint Standing Orders approved by both Houses of the Parliament.

PREFACE

This Report examines the control of visitor entry and is the second of two reports of the Inquiry into the Business Migration Program and Control of Visitor Entry.

After announcing its Inquiry, the Joint Committee of Public Accounts (JCPA) found that there was widespread concern about the operation of the Business Migration Program and so decided that it would be appropriate to partition the Inquiry and examine the Business Migration Program before proceeding to matters relating to the control of visitor entry.

The Committee tabled its first Report in June 1991, which was JCPA Report 310: Business Migration Program.

In turning its attention to the control of visitor entry, the Committee conducted three public hearings and one in-camera hearing in Canberra, and conducted an inspection of Entry Control Points in Sydney Kingsford-Smith Airport and the Entry Operations Centre at the Department of Immigration, Local Government and Ethnic Affairs' Central Office in Canberra.

In examining the development and implementation of the Immigration Records and Information System and Travel and Immigration Processing System the Committee observed that the Department has developed a system which allows for the rapid processing of visitor and temporary entry visa applications, while maintaining an effective screen to prevent the entry of persons whose presence in Australia would not be desirable.

The Committee is grateful for the cooperation it has received from numerous individuals and organisations throughout the Inquiry. The Committee thanks the Secretary of the Department of Immigration, Local Government and Ethnic Affairs and notes its appreciation for the assistance given to the Inquiry by his staff. The Committee also gratefully acknowledges the support given by its Secretariat.

For and on behalf of the Committee

Hon G F Punch, MP
Chairman

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RECOMMENDATIONS

The Committee has made a number of recommendations which are set out below, cross-referenced to their location in the text.

The Committee recommends that:

1. The Department of Immigration, Local Government and Ethnic Affairs maintain in real terms the resource levels allocated to compliance activity with a view to reducing even further the number of overstayers in Australia. (Paragraph 4.35)
2. The *Migration Act 1958* be amended to require persons who hold Australian passports to use these passports when entering or leaving Australia. (Paragraph 4.51)
3. (a) In the preparation of a passport forfeiture brief, MAL and PASS be checked to ascertain if a person holds any other passport, and

(b) the receipt of a request for information in relation to a passport forfeiture brief should trigger an emergency alert on MAL and PASS to prevent the departure from Australia of the holder of a surrendered Australian passport leaving on any other passport. (Paragraph 4.55)
4. (a) The Department of Immigration, Local Government and Ethnic Affairs, the Australian Federal Police and State police forces form a working party to establish procedures to measure the extent of criminal activity of persons entering Australia on visitor and temporary entry visas, and

(b) this working party should examine:
 - the extent of policing problems associated with persons entering on temporary entry and visitor visas and engaging in criminal activities;
 - the types of criminal activities being undertaken;
 - any geographical concentrations of such activity; and

- any multi-agency action which should be taken to deal with these activities. (Paragraph 4.47)

- 5. IRIS be installed in all overseas posts as soon as possible. (Paragraph 3.19)

- 6. Passenger cards should be maintained. (Paragraph 3.45)

- 7. A two way communication link with overseas posts for MAL updates be established as soon as possible. (Paragraph 4.12)

- 8. The Working Group of representatives of the Department of Employment, Education and Training, the Department of Foreign Affairs and Trade and the Department of Immigration, Local Government and Ethnic Affairs reviewing Pre-Visa Assessment criteria for short, non-formal studies application, examine the retention of the prepayment of fees, introduction of bonds or bank guarantees as a financial viability test in the Pre-Visa Assessment. (Paragraph 5.24)

- 9. The Department of Immigration, Local Government and Ethnic Affairs, when preparing statistics on persons seeking asylum in Australia, include an analysis of categories under which asylum seekers gain entry into Australia. (Paragraph 5.35)

ABBREVIATIONS

ACS	Australian Customs Service
ADP	Automated Data Processing
AFP	Australian Federal Police
ANAO	Australian National Audit Office
DEET	Department of Employment, Education and Training
DFAT	Department of Foreign Affairs and Trade
DILGEA	Department of Immigration, Local Government and Ethnic Affairs
ECP	Entry Control Point
ELICOS	English Language Intensive Courses for Overseas Students
EOC	Entry Operations Centre
IRIS	Immigration Records and Information System
JCPA	Joint Committee of Public Accounts
JSCMR	Joint Standing Committee on Migration Regulations
MAL	Migration Alert List
MPPP	Master Plan for Passenger Processing
PASS	Passenger Automated Selection System
PRC	People's Republic of China
PVA	Pre-Visa Assessment
TRIPS	Travel and Immigration Processing System

CHAPTER 1

OVERVIEW

Introduction

1.1 This is the second report of the Joint Committee of Public Accounts on its Inquiry into the Business Migration Program and Control of Visitor Entry. After the announcement of the Inquiry in June 1990, the Committee resolved to examine and report on the Business Migration Program prior to examining issues arising from the control of visitor entry.

1.2 The Terms of Reference concerning the control of visitor entry resulted from the Report on audits to 31 December 1988 by the Australian National Audit Office (ANAO), presented to Parliament in April 1989, which found control weaknesses, procedural breakdowns and system deficiencies within visa issue and entry operations administered by the Department of Immigration, Local Government and Ethnic Affairs (DILGEA).

Visitor Entry

1.3 Visitor and temporary entry into Australia is controlled by DILGEA as part of the Migration and Visitor Entry Program. The administration of the issue of visitor and temporary entry visas lies with the Visitors and Entry Subprogram. The objectives of this Subprogram are to develop and foster procedures which promote and facilitate the entry of foreign nationals to Australia for tourism, social, economic, business, cultural exchange and other short term visits, and to provide effective and efficient immigration screening for Australia.

1.4 In order to meet these objectives DILGEA has developed and installed an integrated computer system that combines rapid processing times with effective screening of applicants against alert lists to replace the previous systems used to issue visitor and temporary entry visas.

1.5 This system is made up of three elements:

the Immigration Records and Information System (IRIS);

- the Travel and Immigration Processing System (TRIPS); and
- the Entry Operations Centre (EOC).

1.6 The system generates an electronic record of an application for a visa (via IRIS), which is then checked against alert databases (via TRIPS) before a visa is issued. Upon arrival in Australia, the electronic record is accessed by Customs officers at entry control points (again via TRIPS) to verify travel documentation carried by a visitor, and record the visitor's entry into Australia. The system is managed by the EOC which operates 24 hours a day, seven days a week.

1.7 The Committee is satisfied that the administrative deficiencies identified by the ANAO in its April 1989 Report have been adequately addressed by DILGEA in the development of the IRIS and TRIPS system.

Controlling Visitor Entry

1.8 As part of the development of TRIPS, the administrative mechanisms used to control the Migrant Alert List (MAL) were completely revised. The MAL database was integrated into the visa issuing process, and linked electronically to the Passenger Automated Selection System (PASS) operated by the Australian Customs Service (ACS).

1.9 Incorporated into the development of TRIPS subsystems is the ability to extract information on overstayers into an Overstayer Report, which can be accessed at any time. The production of information on overstayers forms part of DILGEA's strategy for dealing with illegal entrants. This strategy has involved significantly increasing compliance staffing and resources and strengthening, through legislative amendment, DILGEA's powers to identify and locate illegal entrants.

Export of Education Services

1.10 The concern of the Committee in examining the export of education services is to ascertain that adequate immigration controls are being maintained to prevent the abuse of overseas student entry provisions as a means of gaining illegal entry into Australia.

1.11 The export of education services has been the subject of a recent investigation by the Industry Commission, which released its report in September 1991.

1.12 In examining the Report of the Industry Commission, the Committee noted that the concerns it had regarding immigration controls for the industry were shared by the Commission. The Committee considers that the introduction of stricter immigration controls since 1989 and the progressive transfer of administrative responsibility for immigration aspects of the industry to DILGEA have brought the abuse of student entry provisions under control. The Committee therefore endorses the recommendations of the Industry Commission which relate to the administration of immigration aspects of the industry being transferred to DILGEA.

1.13 The Australian National Audit Office (ANAO) has identified the Overseas Student (Full Fee Paying) Program as a subject for further investigation, but decided to defer a more detailed audit in view of the significant continuing changes being made to the program.

1.14 The Committee awaits this report from the ANAO and as part of its duties under the *Public Accounts Committee Act 1951* the Committee will review the ANAO's findings.

CHAPTER 2

BACKGROUND

Introduction

2.1 The Joint Committee of Public Accounts, under the Terms of Reference announced in June 1990, undertook to:

- examine the effectiveness of DILGEA's revised monitoring and evaluation package applying to the Business Migration Program;
- assess the adequacy of the Department's policy and procedures regarding the Migration Alert List;
- monitor the adequacy of the Department's computerisation program, especially as it relates to monitoring overstayed visitors and the proposed role of the Entry Operations Centre; and
- assess the Department's response to ANAO criticisms of cases where unauthorised officers issued visas at overseas posts and to the need to minimise the risk of illegal visitor entry via abuse of domestic travel on international flights.

2.2 In view of the public concerns about the Business Migration Program expressed in the submissions it received, the Committee resolved to examine and report on this Program prior to undertaking its scrutiny of the control of visitor entry.

2.3 The Committee presented its Report on the Business Migration Program in June 1991 (JCPA Report 310: Business Migration Program) and then commenced its investigation into the control of visitor entry.

Background to the Inquiry into the Control of Visitor Entry

2.4 The Inquiry into the Control of Visitor Entry arose from criticisms made by the ANAO Report on audits to 31 December 1988, presented to Parliament in April 1989. ANAO found control weaknesses, procedural breakdowns and system deficiencies within visa issue and entry operations which created a 'serious inherent risk' that entry could be granted to people contrary to the national interest. The Report also noted that, despite these findings, the audit showed 'no evidence to suggest that administrative effectiveness had been compromised.'¹

2.5 Specific areas of concern highlighted by ANAO were:

- . a lack of clear policy and procedures in the Migration Alert List, which is the warning list used by the Department to screen all persons who seek to enter Australia;
- . instances of visas issued by unauthorised officers;
- . the possibility of overriding screen alerts during processing of visas on the Immigration Records and Information System;
- . inadequate control of overseas visitors over their domestic travel on international flights; and
- . a lack of adequate communication between the central office of the Department and its overseas posts and airports.²

2.6 The Committee considered the ANAO's Report in its Report No. 300, tabled in November 1989. In preparing Report 300, the Committee invited DILGEA to comment on the ANAO's criticisms.

2.7 After considering DILGEA's submission and consulting further with the ANAO, the Committee resolved to monitor the developments affecting the control of visitor entry in the following areas:

-
1. The Auditor-General, Report on audits to 31 December 1988, AGPS, Canberra, April 1989, p. 177.
 2. JCPA, Reports of the Auditor-General - March 1988, September 1988 and April 1989, Report 300, AGPS, Canberra, November 1989, pp. 40-1.

- . assessing the adequacy of Departmental policy and procedures regarding the Migration Alert List;
- . monitoring the adequacy of the Department's extensive computerisation program; and
- . assessing the Department's response to Audit criticisms of cases where unauthorised officers issued visas at overseas posts, and the need to minimise the risk of illegal visitor entry via abuse of domestic travel on international flights.³

Conduct of the Inquiry

2.8 Fifty seven submissions were received covering both parts of the Inquiry; they are listed at Appendix 1. In relation to the control of visitor entry aspects of the Inquiry, the Committee conducted three public hearings and one in-camera hearing in Canberra in October and November 1991. Appendix 2 lists the witnesses who gave evidence at these public hearings. The Committee also conducted an inspection of Entry Control Points at Sydney Kingsford-Smith Airport and the Entry Operations Centre, DILGEA Central Office, Canberra.

3. op. cit., pp. 41-2.

CHAPTER 3

THE ADMINISTRATION OF VISITOR ENTRY

Introduction

3.1 The objectives of the Visitors and Entry Subprogram of the Migration and Visitor Entry Program are to develop and foster procedures which promote and facilitate the entry of foreign nationals to Australia for tourism, social, economic, business, cultural exchange and other short term visits, and to provide effective and efficient immigration screening for Australia.¹

3.2 All visiting nationals from other countries (except New Zealand) are required to obtain a visa before travelling to Australia. Since 1984/85 the annual increase in visitor visas has averaged approximately 20%, and in 1990/91 more than 1.48 million visitor visas were issued. This reflects the promotion of Australia as a tourist destination; it is also the result of an increase in family connected travel to Australia.²

3.3 Such an increase in the movement of visitors into and out of Australian must, however, be balanced against the need to identify and exclude those persons whose entry would not be in Australia's interest. This group includes terrorists, criminals and people who seek to stay in Australia without undergoing normal checks and processing.

3.4 To fulfil these functions, DILGEA's procedures for the issue of visas for temporary entry involve screening potential visitors. This is carried out in two stages - the first when applying for a visa in the overseas country, and the second on arrival in Australia.

3.5 The first screening is conducted prior to the issue of a visa and comprises:

a determination that the applicant meets visitor requirements;

1. Evidence, p. 1076.
2. Evidence, p. 1079.

- . an assessment of the applicant's bona fides (genuineness or expectation that the applicant will comply with requirements); and
- . a check against the Migration Alert List (MAL).

3.6 The second screening is conducted at an Entry Control Point (ECP) in Australia by Customs officers. The Customs officer:

- . confirms the visitor's identity against his or her travel documentation;
- . assesses that the visitor is bona fide; and
- . checks travel documentation against the most up-to-date MAL³

before permitting the person to enter Australia.

The Master Plan for Passenger Processing

3.7 The administrative mechanisms currently used to control the flow of visitors into and out of Australia were created in the context of the development of the Master Plan for Passenger Processing (MPPP).

3.8 The purpose of the MPPP was to develop a strategy for:

- . processing the increasing volume of visitor visa applications;
- . streamlining the administrative mechanisms used to process applications to decrease 'turnaround' time between visa application and visa issue;
- . reducing the waiting time at ECPs at airports for visitors entering Australia; and
- . maintaining an effective screening process in view of the increase in volume of visitors travelling to Australia.

3. Evidence, pp. 1077-8.

3.9 The MPPP was developed by a working group consisting of the Australian Customs Service (ACS), DILGEEA and representatives from other Commonwealth departments with an interest in immigration and entry issues, and was endorsed by Cabinet in August 1988.⁴ The creation of the working group was the first time that all Commonwealth departments involved in passenger processing had met to discuss the administration of passenger movement with a view to developing an integrated plan for the control of entry into Australia.⁵

3.10 The MPPP involved the computerisation of many processes formerly undertaken manually, allowing for a more streamlined processing system, and the incorporation of more efficient and effective checks on migrants and temporary entry visa holders.

3.11 The use of computer technology required the complete review of immigration procedures for both visa issuing at overseas posts and for processing of passengers through the ECPs at airports. New Automated Data Processing (ADP) arrangements linked together visa issuing data from overseas and the various alert databases in Australia. The development of the ADP systems allowed for:

- an increase in the speed of processing applications;
- the electronic transfer of visa data to Australia;
- reduced keying by Customs officers at ECPs; and
- the creation of an electronic record of visitors travel into and out of Australia.

3.12 The use of automated passenger processing also allowed for the establishment of performance targets for visa applications and visitor processing. For instance:

- visitor visas will be issued on-the-spot in overseas countries for 80% of personal callers;
- decisions on 80% of drop-in/mail-in visitor applications will be made within 24 hours in all major tourist source countries;

4. Evidence, p. 1083.

5. Evidence, p. 1128.

- immigration clearance at airport ECPs will be below 45 seconds for each correctly documented passenger;
- queuing time at ECPs will be below 10 minutes for 80% of travellers and no more than 30 minutes for the remainder; and
- 80% of travellers requiring interview by an immigration inspector will receive attention within 15 minutes of referral.⁶

3.13 The ADP systems developed by DILGEA to implement the MPPP consist of three elements - the Immigration Records and Information System (IRIS), the Travel and Immigration Processing System (TRIPS) and the Entry Operations Centre (EOC).

Immigration Records and Information System

3.14 The primary function of IRIS is to create a record of the application for a visa, check the application against alert lists, and print a visa.

3.15 The IRIS system was developed in two stages. In its initial form (IRIS I), IRIS was primarily a registry and visa issuing system. The system was installed in February 1987 and by December 1988 was operating in 35 posts. IRIS II was introduced in June 1989. IRIS II incorporates alert lists, which used to be checked manually before a visa could be issued, and enhanced security systems to prevent unauthorised use of the system.

3.16 These security features include:

- the head of an immigration section of an overseas post being the only person authorised to set user accounts;
- the head of the immigration section being able to choose whether individual user accounts can have access to alert lists, override alert lists, enter decisions on applications, or authorise visas; and

6. Evidence, p. 1078.

IRIS will not print a visa unless alert lists have been checked.⁷

3.17 DILGEA stated that IRIS is now installed in 48 overseas posts and issues 95% of visitor visas. DILGEA expects to have IRIS installed in all overseas posts by the end of 1992.⁸ There are, however, a number of small volume, high risk posts which currently do not have IRIS installed. Visas are issued manually and alert lists are distributed either on a floppy disk or by microfiche.⁹

3.18 The Committee notes that the installation of IRIS proceeded according to the volume of visas issued by overseas posts. All high volume/high risk, medium risk/medium volume posts now have IRIS installed. The Committee considers that, in order to provide an effective immigration screen, the remaining high risk/small volume posts should be equipped with IRIS as a matter of priority and that installation of IRIS in all posts should be completed as soon as possible.

3.19 The Committee recommends that:

IRIS be installed in all overseas posts as soon as possible.

Travel and Immigration Processing System

3.20 TRIPS is the information management system which combines visa issue overseas and entry control in Australia into a unified process.

3.21 TRIPS processes data as follows:

visa data generated by IRIS is captured and transmitted to Australia by the VISION system. VISION is a PC based system which extracts visa data from IRIS and transfers it to the DILGEA mainframe computer;

data is loaded onto the visa database and checked against the MAL;

7. Evidence, pp. 1084-5.

8. Evidence, pp. 1131-2.

9. Evidence, p. 1132.

the visa database is accessed by Customs officers at ECPs, who key in the visitor's visa number and receive details of the visa that was issued and the person to whom it was issued. The system also indicates to the Customs officer when a referral to an immigration inspector is necessary; and

the travel record created by IRIS is automatically updated on arrival/departure of the visa holder.¹⁰

Entry Operations Centre

3.22 The EOC was established as a central coordinating body to manage the operations of TRIPS. It monitors the timeliness and accuracy of incoming data, maintains visa, MAL and passport databases and acts as a central liaison body on entry matters between airports, overseas posts, regional offices and interested agencies.

3.23 To perform this function the EOC operates 24 hours a day, seven days a week.¹¹

3.24 The development and installation of this integrated ADP system has allowed DILGEA to reach the performance targets set by the MPPP. With the achievement of virtual over-the-counter visa issue, DILGEA now has the flexibility to explore new methods of visa delivery which will make the process of getting a visa and clearing the ECPs more 'user friendly'. New methods under active consideration include the installation of IRIS terminals in Qantas' offices in England¹², and the pre-clearance of flights from 'low risk' countries.¹³

3.25 The adoption of the MPPP and development and installation of the IRIS system have resulted in major efficiency gains for DILGEA. The Department has handled the increase in visa workload with only small increases in staffing.¹⁴ Further efficiency gains are expected to be made with the introduction of document

10. Evidence, pp. 1085-6.

11. Evidence, p. 1087.

12. Evidence, p. 1133.

13. Evidence, p. 1091.

14. Appendix 3, p. 58.

reading machines. These machines will eliminate the need for keying data by Customs officers at ECPs, and allow for the automatic matching of data held by TRIPS. The installation of document reading machines will commence in early 1992.¹⁵

Administrative Deficiencies Identified by the Australian National Audit Office

3.26 The ANAO examined the control of visitor entry in the second half of 1988, at the time of the initial development and installation of IRIS. Consequently, the audit was conducted in a time of transition for entry control operations, with a combination of automated and manual procedures being used to process visitor applications. The ANAO's Report found control weaknesses, procedural breakdowns and system deficiencies within visa issue and entry operations, specifically:

- . instances of visas issued by unauthorised officers;
- . the possibility of over-riding screen alerts during processing visas on IRIS;
- . a single user identification code being used to operate more than one IRIS terminal simultaneously; and
- . a lack of adequate communication between the central office of the Department and its overseas posts and airports.

3.27 The further development and installation of IRIS and the introduction of TRIPS and the EOC have allowed DILGEA to address the administrative deficiencies identified by the ANAO. In addition, the automation of the visa issuing system has removed a number of the deficiencies associated with the manual issuing of visas.

3.28 DILGEA's response to the ANAO's Report pointed out that "many of the factors reported on ... were brought to notice by [the] Department and the ANAO informed of solutions we had either put in place or were progressing towards."¹⁶

15. Evidence, p. 1087.

16. Appendix 3, p. 57.

3.29

DILGEA made the following response to the ANAO findings:

ANAO finding

instances of visas issued by unauthorised officers.

Urgent requests for the issue of delegations for authorisation of visa issue can be finalised in two weeks. IRIS features a security system which only allows the Principal Migration Officer access to an account which can be used to issue visas.

ANAO finding

a single user identification code can be used to operate on more than one IRIS terminal simultaneously.

Developments to IRIS I and II now prevent a single log-on from being used to operate more than one terminal.

ANAO finding

a lack of adequate communication between the central office of the Department and its overseas posts and airports.

Introduction of the EOC provided a central point of contact for all matters concerning the movement of passengers into and out of Australia. The EOC is staffed 24 hours a day, seven days a week to provide response to national and international inquiries concerning visas and entry permits.¹⁷

3.30

The Committee is satisfied that the administrative deficiencies identified by the ANAO in its April 1989 Report have been adequately addressed by DILGEA in the development of the IRIS and TRIPS systems.

17. Evidence, pp. 1093-8.

Domestic Passengers on International Flights

3.31 An issue related to the control of visitor entry is that of domestic travel on international flights within Australia. The ANAO found that domestic travellers on those flights require little documentary identification to board their flight other than a specially marked boarding pass. The ANAO concluded that there was an inherent risk that international travellers may be able to avoid entry control checks by obtaining or forging a marked domestic boarding pass.¹⁸

3.32 This issue is one that has been raised previously by the ANAO. In Report No. 17 of 1989-90: Australian Customs Service - Passenger and Crew Processing, the ANAO found that domestic passengers were considered to be 'low risk' and consequently, there was little chance of a domestic passenger, or a person who identified himself as a domestic passenger, being selected for baggage examination or body search.¹⁹

3.33 In evidence to the Committee the ACS stated:

We recognise ... that those people form a low risk category ... Nevertheless, the potential is there and you cannot ignore it. If you are going to build an effective framework of Customs control and immigration border control, it is no good leaving a door open ... which I am sure people would exploit.²⁰

3.34 DILGEA acknowledges that there is an inherent risk that international travellers may be able to avoid entry control checks by obtaining or forging a domestic boarding pass.

3.35 In addressing this point, DILGEA noted that the physical structures of Australia's international airports and practical considerations of airline operations mean that any flight operated by an international airline can have a mixture of

18. The Auditor-General, Report on audits to 31 December 1988, AGPS, Canberra, April 1989, p. 183.

19. The Auditor-General, Audit Report No. 17, 1989-90: Australian Customs Service - Passenger and Crew Processing, AGPS, Canberra, 1989, p. 8.

20. Evidence, p. 1239.

cleared and uncleared passengers. DILGEA further notes that the opportunity to enter or leave Australia without passing through immigration controls and without being recorded on immigration systems is a serious deficiency in entry control procedures.²¹

3.36 *This issue has now been effectively addressed by DILGEA:*

From April this year we have required that all domestic passengers on international flights must satisfactorily identify themselves to a Customs officer as they enter or depart a control point linking their boarding pass to really what is a travel document which they have to carry. Secondly, we are working to incorporate into TRIPS an actual transaction of domestic passengers boarding or deplaning international flights. This will allow us to do a reconciliation that only domestic travel was in fact undertaken.²²

3.37 The Committee notes the concern expressed by both DILGEA and the ACS regarding the potential for breach of immigration controls and the entry barrier by the mixing of uncleared domestic passengers with cleared international passengers.

3.38 The Committee however concludes that the risk identified by the ACS and DILGEA associated with mixing cleared international passengers with uncleared domestic passengers has been substantially reduced by the introduction of the domestic passenger card.

3.39 The Committee believes that this risk can be further reduced by the expansion of TRIPS to include a travel record for domestic travellers.

Passenger Cards

3.40 The purpose of passenger cards, filled out by each passenger, is to collect basic information on incoming and departing travellers. Although these cards have a significant immigration content, the ACS and law enforcement agencies also use the information they contain. In addition, DILGEA extracts information for use by the travel and tourism industry.

21. Evidence, p. 1095.

22. Evidence, p. 1181.

3.41 The development and installation of IRIS and TRIPS by DILGEA has greatly reduced the reliance placed on these cards to provide details of passenger movements into and out of Australia. Consequently, the issue of the retention of passenger cards was raised in evidence.

3.42 DILGEA stated that while passenger cards no longer formed an integral part of the entry process a number of considerations needed to be weighed before a final decision could be made about their future use.²³

3.43 The ACS stated that passenger cards, while originally having a primary immigration purpose, also have an important secondary role in assisting Customs officers to detect the entry of non bona fide passengers.²⁴ Evidence from the Australian Federal Police (AFP) indicated that passenger cards have a wider use by law enforcement and other agencies and the AFP preferred they continue to be used.²⁵

3.44 The Committee notes in evidence from DILGEA and the AFP that, while the abolition of passenger cards has been examined, no decision has yet been made. Although their primary role has declined with the introduction of IRIS, passenger cards assist in maintaining effective controls over the movement of persons in and out of Australia.

3.45 The Committee recommends that:

passenger cards should be maintained.

23. Evidence, p. 1177.

24. Evidence, p. 1237.

25. Evidence, p. 1251.

CHAPTER 4

CONTROLLING VISITOR ENTRY

Introduction

4.1 Controlling visitor entry is a key function in the administration of the migration program. Abuse of visitor visa conditions by overstaying can lead to a perception that entry controls applied to applicants for permanent residence can be evaded by gaining temporary entry into Australia and staying beyond the expiry of the visa. Strategies used by DILGEA to control visitor entry are the use of screening procedures and alert lists at the time of visitor application and entry into Australia, and an active program of identification, location and removal of illegal entrants who have no eligibility to remain in Australia.

4.2 The objective of entry control is to identify and exclude persons whose entry would not be in the interests of the Australian community, including people who intend to work illegally in Australia and people who seek to stay permanently in Australia without undergoing normal processing.¹

4.3 In carrying out this function, DILGEA must also take into consideration the overall objective of the Visitors and Entry Subprogram; to facilitate the entry of foreign nationals into Australia for tourism, social, economic and cultural exchange.²

4.4 While these functions may seem contradictory, the use of the visa system and associated screening procedures provides a mechanism to identify and exclude persons wishing to enter Australia who may not be bona fide.

Migration Alert List

4.5 MAL is DILGEA's principal intelligence information system. It records information about people who have been involved in immigration malpractice and other people who may seek to travel to Australia but whose application should be subject to scrutiny. MAL is used overseas to screen all visa applications and is also

1. Evidence, p. 1080.
2. Evidence, p. 1076.

used at ECPs to screen persons arriving in Australia.³

4.6 Currently, MAL exists in two forms:

- . an electronic database maintained by the EOC; and
- . a floppy disk or microfiche list which is distributed to overseas posts on a monthly basis.

4.7 Applications for visas are checked twice against MAL. As an application is made, details of the application are checked against MAL held in the overseas post. The application information is then down-loaded to the EOC, where the application is again checked against the most up to date MAL before a visa is issued.

4.8 The ANAO found significant backlogs in entering data on MAL at the time of its review in late 1988. The backlog exceeded 2700 requests in August 1988 and grew through the latter half of that year.⁴ As part of the implementation of the MPPP this backlog in data entry was cleared, and DILGEA is now up to date with the lodgements of alerts on MAL. DILGEA stated that a request for an alert can be processed within 24 hours of receipt, with the information being available to ECPs immediately.⁵

4.9 DILGEA is also reviewing the arrangements for distribution of MAL to overseas posts. The ANAO recommended that DILGEA investigate the feasibility of establishing a two way communication link with overseas posts for specific alerts, MAL updates and details of visitor visa refusals. DILGEA agreed with this recommendation and indicated that it would be examining the feasibility of such a link as part of its enhancement program for IRIS.⁶

4.10 Currently a specific alert can be transmitted to overseas posts on the day it is received but, as yet, the two way communication link has not been established. According to DILGEA this has now become a high priority.⁷

3. Evidence, p. 1087.

4. The Auditor-General, Report on Audits to 31 December 1988, AGPS, Canberra, April 1989, p. 179.

5. Evidence, pp. 1094, 1149.

6. The Auditor-General, *op.cit.*, p. 180.

7. Evidence, p. 1151.

4.11 The Committee agrees with the ANAO conclusion that the efficiency of MAL would be improved by the establishment of a two way communication link with overseas posts, and notes that DILGEA is examining this as a matter of high priority.

4.12 The Committee recommends that:

a two way communication link with overseas posts for MAL updates be established as soon as possible.

Passenger Automated Selection System

4.13 MAL is one of two primary alert systems used in the control of visitor entry. The other database, called the Passenger Automated Selection System (PASS), is maintained by the ACS. Whereas MAL primarily contains information on persons who have a history of non-compliance with immigration requirements,⁸ PASS is a system whereby police agencies, security agencies or other law enforcement agencies place requests so that they can be alerted to the entry of an individual.⁹

4.14 PASS is used in combination with MAL at entry stage. Customs officers at ECPs key in a visitor's visa number which is then compared to MAL and PASS before the visitor is permitted to enter Australia.¹⁰

4.15 Although the two alert systems have different purposes, they share much of the same data. In its Report, the ANAO found that there were inadequacies in the two systems in that there was no direct linkage between MAL and PASS, requiring information to be entered manually into each system. Furthermore, the systems were constructed slightly differently, so that possible matches between MAL and PASS may not be recorded.¹¹

4.16 As part of the development of the MPPP, a direct linkage between MAL and PASS was established to allow information contained on either database to be accessed by Customs officers or TRIPS users. The implementation of this link has eliminated the possibility of inconsistencies between the systems.

8. Evidence, p. 1087.

9. Evidence, p. 1148.

10. Evidence, pp. 1131, 1151.

11. The Auditor-General, op.cit., p. 178.

Administrative Deficiencies Identified by the Australian National Audit Office

4.17 As outlined above, operational and administrative procedures for MAL were completely reviewed as part of the implementation of the MPPP. This review addressed the major deficiencies identified by the ANAO.

4.18 The Committee is satisfied that the deficiencies identified by the ANAO in the administration of MAL and the interface between MAL and PASS have been fully addressed by DILGEA in the development of TRIPS.

Overstayers

4.19 DILGEA stated that it estimated the number of illegal entrants in Australia to be 78,000 as at 30 April 1991. This figure was broken down into the following categories:

- . 52,000 entered as visitors;
- . 12,000 entered as students;
- . 7,000 entered as temporary residents; and
- . 7,000 entered as transits, and others.¹²

4.20 DILGEA's strategy for dealing with overstayers is based on accurate knowledge of:

- . who is in the country; and
- . the status of that person as a legal or illegal entrant.

4.21 This information is then circulated to various agencies that may come into contact with illegal immigrants. The aim is two fold:

- . to increase the risk of detection by increasing general

12. Evidence, p. 1161.

compliance checking activity; and

to ensure that illegal entrants cannot gain access to benefits which enable them to remain in Australia undetected.¹³

4.22 The ability of DILGEA to obtain accurate information concerning the status of non-citizens in Australia has greatly increased with the introduction of IRIS and TRIPS. Included in the development of TRIPS subsystems is an option which can produce, at any time, an Overstayer Report which contains the personal particulars of all temporary entrants in Australia who do not possess valid entry permits on the date the report is compiled.¹⁴

4.23 In discussing the issue of the number of overstayers and illegal entrants with the Committee, DILGEA stated that the instances of undocumented entry by persons jumping ship or landing from the Torres Strait were negligible¹⁵ and consequently the data being provided on illegal entrants is now:

... as close to 100% as you can get it.¹⁶

4.24 The Committee considers that the capacity of DILGEA to ascertain the number of illegal entrants in Australia has improved considerably with the introduction of the IRIS and TRIPS system.

Compliance

4.25 In addition to improving the reliability of data concerning overstayers, DILGEA is also enhancing its ability to carry out compliance action. Compliance activity by DILGEA acts as a disincentive to those persons intending to overstay by providing visible evidence that the Department is enforcing migration law.

4.26 These measures have involved amending the *Migration Act 1958* and increasing resources for compliance activity. In August 1990, the Minister for Immigration, Local Government and Ethnic Affairs announced a number of measures aimed at curbing illegal migration. The measures were:

13. Evidence, p. 1170.

14. Evidence, p. 1088.

15. Evidence, pp. 1163-4.

16. Evidence, p. 1163.

- . to increase the number of compliance staff to 150;
- . to carry out checks of employers and educational institutions;
- . to deport criminal illegal entrants; and
- . to investigate organised immigration rackets.¹⁷

4.27 As a result of these measures, detention centres were expanded to satisfy the need for additional facilities.¹⁸

4.28 Measures introduced in August 1990 were further strengthened by the provision of additional resources in the 1991-92 Budget. Additional powers are needed to detect illegal immigrants, including documents from State, Territory and other Commonwealth Departments about the identity or whereabouts of suspected illegal entrants. The *Migration Amendment Bill (No. 2) 1991* will allow DILGEA to obtain information to identify and locate illegal entrants.¹⁹

4.29 DILGEA is also exploring information-sharing arrangements with agencies that receive information on non-citizens to assist it in locating illegal entrants.²⁰ These agencies include:

- . the Department of Social Security;
- . the Health Insurance Commission;
- . the Australian Federal Police;
- . the Department of Health, Housing and Community Services;

17. Minister for Immigration, Local Government and Ethnic Affairs, Media Release, 5 August 1990, pp. 1-2.

18. Minister for Immigration, Local Government and Ethnic Affairs, Media Release, 20 August 1991, pp. 1-2.

19. House of Representatives, Hansard, 15 October 1991, p. 1930.

20. Evidence, p. 1170.

- the Department of Employment, Education and Training; and
- motor vehicle licensing authorities.²¹

4.30 In 1990-91, 9,342 illegal entrants were located. Of these 4139 had their departure enforced and 786 people were deported. DILGEA estimates that 34,000 illegal entrants departed the country in the same period. This compares with 2,896 detections and 31,000 departures in 1989-90.²² With the departures recorded for 1990-91, however, there still remained approximately 44,000 illegal entrants in Australia.

4.31 DILGEA stated that the resources for compliance activity were:

... just about right. I think we can maintain a level of compliance action which creates a perception that there is a risk if you do not comply with your entry permit or if you overstay.²³

4.32 The Committee appreciates the difficulties faced by DILGEA in balancing the seemingly conflicting objectives posed by the need, on the one hand, to facilitate the entry of visitors to Australia, while on the other maintain the integrity of the migration program and prevent the entry of undesirable persons into Australia.

4.33 A high number of overstayers can send a signal to persons wishing to evade immigration controls and enter Australia permanently that, once entry has been obtained, de facto permanent residence can also be obtained. With the implementation of TRIPS, increased compliance activity and exploration of information-sharing arrangements with other agencies, DILGEA is actively seeking to reduce the number of overstayers in Australia.

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21. Immigration, Local Government and Ethnic Affairs Portfolio Program Performance Statements 1991-92, Budget Related Paper No. 8.9, Department of Immigration, Local Government and Ethnic Affairs, Canberra, 1991, p. 96.
 22. Evidence, p. 1172; Immigration, Local Government and Ethnic Affairs Portfolio, op.cit., p. 95.
 23. Evidence, p. 1172.

4.34 The Committee concludes that the action by DILGEA to increase compliance staffing and resources coupled with legislative changes to the *Migration Act 1958* have strengthened DILGEA's ability to enforce compliance with visitor and temporary entry visa conditions. The Committee remains concerned, however, at the high number of overstayers in Australia. While this represents a relatively low number compared to the overall number of entry visas issued, it still represents a significant number of people entering and remaining in Australia illegally. The compliance efforts of DILGEA should be maintained with a view to reducing the number of overstayers.

4.35 The Committee recommends that:

the Department of Immigration, Local Government and Ethnic Affairs maintain in real terms the resource levels allocated to compliance activity with a view to reducing even further the number of overstayers in Australia.

Liaison with Law Enforcement Agencies

4.36 Evidence from the AFP indicated that, in terms of developing and implementing IRIS and TRIPS, DILGEA had developed an advanced information gathering system which was advantageous to the control of visitor entry:

... Australia enjoys a system which should be the envy of many other countries.²⁴

4.37 DILGEA has adopted a number of initiatives designed to improve communications and information exchange with law enforcement agencies, with a view to further enhancing control mechanisms over the movement of visitors and the prevention of entry by undesirable persons. In its submission, the National Crime Authority outlined the creation of liaison groups between law enforcement agencies, DILGEA and the Department of Foreign Affairs and Trade (DFAT). The purpose of these groups is:

... to ensure that there is a continuing channel of communication on law enforcement requirements in relation to immigration and passport matters.²⁵

24. Evidence, p. 1249.

25. Evidence, p. S436.

4.38 DILGEA is also seeking to enhance its links with the AFP by working towards removing the obstacles preventing the AFP from gaining on-line access to IRIS.²⁶ Access to IRIS by the AFP will considerably improve both agencies' performance in the detection and removal of criminals entering Australia.

4.39 It will not be possible, however, to prevent the entry of all undesirable persons seeking to enter and remain in Australia illegally, or to enter Australia for illicit purposes. The major problem in maintaining alerts lists lies not so much with the provision of information to immigration officers at overseas posts, but obtaining the information in the first instance. The AFP stated in evidence:

... we have sought to improve the access to police criminal intelligence information within overseas countries where that information may be of assistance to prospective visa applicants ... each country has a different regime, a different set of laws within which it operates and it does not necessarily operate to suit Australia's total requirements. Essentially, the sorts of improvements that we look to are greater access to that overseas information through the Australian Federal Police overseas liaison officers and being able to make that information available in a variety of forms to DILGEA officers when they are considering visa applications.²⁷

4.40 The Committee considers that the development and implementation of IRIS and TRIPS has enhanced DILGEA's ability to screen visa applicants and prevent the entry of persons whose presence in Australia would not be in the country's best interest. TRIPS has also allowed greater accuracy in monitoring overstayers, and the initiatives adopted by DILGEA in the compliance area have sent a signal to the community that the Department is determined to enforce the provisions of the *Migration Act 1958* in relation to visitor and temporary entry.

4.41 The Committee concludes that the liaison groups of officials from law enforcement agencies and DILGEA provide an effective forum for liaison between these bodies on law enforcement requirements in relation to immigration and passport matters.

26. Evidence, p. 1250.

27. Evidence, p. 1246.

4.42 The Committee received information which linked illegal entrants with criminal activity. The AFP stated in its submission that temporary entrants and visitors are responsible for perpetrating crimes.²⁸

4.43 In discussing this issue, the AFP stated:

The difficulty for all of us lies in determining the proportion of the criminal fraternity included within those two million or so visitors per year to Australia ... I think reasonableness would suggest that the number of criminals as a percentage of actual visitors to Australia is very low ... I suspect that there is not, in terms of total numbers, a huge problem ... the proportion of people that we have identified and are now looking very hard at is, in terms of the visitors visas distributed, extremely small.²⁹

4.44 It is clear to the Committee that persons are entering Australia on visitor and temporary entry visas and committing illegal acts. While these numbers are small in proportion to the total number of such visas issued each year, the Committee notes with concern the seriousness of the criminal activities being carried out by these persons. The Committee also notes that it is difficult to establish the actual number of visitors who are involved in criminal activities.

4.45 The Committee considers that further investigation needs to be carried out by the AFP and DILGEA to determine both the numbers of persons entering Australia and subsequently becoming involved in illegal activities, and the categories by which such persons gain entry into Australia.

4.46 The outcome of such an investigation would assist DILGEA, the AFP and State police forces in identifying potential areas of system vulnerability, in terms of the adequacy of bona fide checks that are applied to various categories of temporary entry, and enable DILGEA to focus more effectively on the targeting of entry control procedures to identify persons who should be excluded from Australia.

28. Evidence, p. S474.

29. Evidence, pp. 1252-4.

4.47 The Committee recommends that

- (a) the Department of Immigration, Local Government and Ethnic Affairs, the Australian Federal Police and State police forces form a working party to establish procedures to measure the extent of criminal activity of persons entering Australia on visitor and temporary entry visas, and
- (b) this working party should examine:
 - the extent of policing problems associated with persons entering on temporary entry and visitor visas and engaging in criminal activities;
 - the types of criminal activities being undertaken;
 - any geographical concentrations of such activity; and
 - any multi-agency action which should be taken to deal with these activities.

Dual Passports

4.48 Another area of concern raised by law enforcement agencies relating to the control of visitor entry was the existence/use of dual passports. The AFP stated that:

Dual passports are a frustration to law enforcement. There is no doubt that it is highly frustrating to have people placed before the courts and see them granted bail ... but to see them surrender a passport only to leave the country on another passport is frustrating.³⁰

4.49 The Committee notes advice that the Minister for Immigration, Local Government and Ethnic Affairs is examining an amendment to the *Migration Act 1958* which would prohibit the issue of re-entry visas to Australian passport holders who choose to enter or leave the country on foreign passports. If this amendment is incorporated into the Act, it would require Australian citizens to enter or depart the country on their Australian passports.³¹

30. Evidence, p. 1260.

31. Evidence, p. 1152.

4.50 There are legitimate reasons why a person who possesses an Australian passport may wish to travel on another passport. The Committee believes, however, that Australian citizens should always use their Australian passports when entering or leaving Australia, and strongly supports the proposed amendment to the *Migration Act 1958*.

4.51 The Committee recommends that:

the *Migration Act 1958* be amended to require persons who hold Australian passports to use these passports when entering or leaving Australia.

4.52 Law enforcement agencies were concerned that despite a passport being surrendered, holders of dual passports could still leave the country. DILGEA identified the problem as:

... we have pointed out that anyone who is preparing a passport forfeiture brief should recognise the possibility of multiple passports. There have been instances where the police have said to a prosecutor, 'We want the passport forfeited'. It is not a difficult step to discover whether there are multiple passports and to get an order on multiple passport forfeiture. We have certainly had instances where the police have said 'We asked for his passport to be forfeited and he gave us his Australian passport'. The person has then left on his British passport. We can help stop that. ... I think there is a capacity in the alert listings [to hold information on multiple passports].³²

4.53 Applicants for Australian passports are now required to provide details of their citizenship of another country. With the development of TRIPS and its subsystems, the capacity exists to store and retrieve information on holders of more than one passport. The Committee considers that the potential exists for this information to be used more efficiently than it is at present. As noted previously, DILGEA is moving towards the more efficient use of information held by IRIS and TRIPS by facilitating the AFPs access to this information.

32. Evidence, p. 1153.

4.54 When an Australian passport is forfeited, there should be an automatic check against PASS and MAL to ascertain if a person holds any other passport. Further, the receipt of a request for information by DILGEA (as manager of MAL) or the ACS (as manager of PASS) for use in the preparation of a passport forfeiture brief should trigger an emergency alert on PASS and MAL to prevent the departure of that person from Australia on any other passport.

4.55 The Committee recommends that:

- (a) in the preparation of a passport forfeiture brief, MAL and PASS be checked to ascertain if a person holds any other passport; and
- (b) the receipt of a request for information in relation to a passport forfeiture brief should trigger an emergency alert on MAL and PASS to prevent the departure from Australia of the holder of a surrendered Australian passport leaving on any other passport.

CHAPTER 5

Export of Education Services

Introduction

5.1 Australia has been exporting education services since the commencement of the Colombo Plan in 1950. Arrangements and conditions have changed from time to time. In 1985, a new Overseas Student Policy was introduced which:

- allowed for the continuation of privately subsidised overseas students and an increase in the student charge;
- introduced ceilings and quotas on privately subsidised overseas students;
- continued the government sponsored students program; and
- allowed institutions to charge full fees for private overseas students from 1 January 1986.¹

5.2 As part of these changes, only limited immigration bona fide tests were applied to applicants for student entry to Australia. This led to a significant increase in the number of students, particularly in the non-formal and English Language Intensive Courses for Overseas Students (ELICOS) areas. By 1989, it was clear large numbers of students were overstaying and, in August 1989, it was agreed bona fide testing and Pre-Visa Assessment (PVA) would be introduced.²

5.3 In June 1990, a list of countries whose students have low rates of overstaying and/or breaching visa conditions was gazetted. This action was taken to avoid disadvantaging students from these countries because of the actions of students from other countries.³

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1. Industry Commission Report, Exports of Education Services. Report No. 12, 14 August 1991, AGPS, Canberra, 1991, p. 21.
 2. Evidence, p. 1122.
 3. *ibid.*

5.4 These changes were introduced to assist in developing the export-oriented education industry while preserving the integrity of Australia's immigration arrangements. They have significantly enhanced the role of DILGEA in the administration of the immigration related aspects of that industry.⁴

5.5 The Committee's concern in examining the export of education services was to ensure that adequate immigration controls are being maintained to prevent the abuse of entry provisions as a means of gaining illegal entry into Australia. There is no doubt previous rules were not obeyed, with consequences both to Australia's migration program and to the education export industry.

5.6 During its Inquiry, the Committee received evidence on the use of asylum provisions in the *Migration Act 1958* by foreign students to gain permanent residence in Australia, and on criminal activity by foreign students in this country.

The Industry Commission Report: Exports of Education Services

5.7 Examination of immigration controls placed on overseas students formed part of the Inquiry by the Industry Commission into the Exports of Education Services. The Commission handed down its Report in September 1991.

5.8 The Committee notes that its concerns in relation to immigration controls applying to overseas students were similar to those expressed in the Commission's Report.

5.9 Immigration controls on overseas students have been progressively tightened since August 1989 in an effort to reduce the incidence of student overstay. The measures introduced were:

- August 1989 - introduction of PVA and bona fide testing for all applicants for short, non-formal studies from countries considered to have a high expectation of overstay;
- June 1990 - gazettal of a list of countries from which there is a low expectation of overstay:
 - inclusion in the list was based on statistical evidence of visitor and/or overstay rates below 5% and on actual or prospective political instability;

4. Evidence, p. 1123.

February 1991 - introduction of Category A and Category B student entry visas:

- Category A visas comprise school and post-secondary education requiring Year 12 entry leading to accredited degrees and diplomas, and
- Category B visas comprise all other accredited courses including ELICOS courses.⁵

5.10 In examining the administration of immigration policy in relation to overseas students, the Commission found that both DILGEA and the Department of Employment, Education and Training (DEET) had assumed overlapping roles and responsibilities in this area.

5.11 In law, DILGEA is responsible for all immigration related matters, while DEET administers the subsidised student program and post-graduate research scholarships; maintains the Commonwealth's register of approved courses and institutions, and supplies and receives acceptance advice forms, which are principally used to facilitate the issue of visas.

5.12 The Commission found however, that in practice DEET:

- checks immigration related matters such as passport applications and evidence of payment of fees for course;
- advises applicants of discrepancies in documentation, and passes completed documentation to DILGEA; and
- is advised by institutions of student non-compliance with visa conditions, which it then passes to DILGEA.

5.13 The Commission recommended that rationalisation of the respective roles of DEET and DILGEA should be undertaken to minimise the overlap of responsibilities.⁶ In evidence to the Committee DILGEA stated that in relation to the transfer of functions:

... I hope by the end of the year we will see the final transfer ...

5. Evidence, pp. 1122-3.

6. Industry Commission, *op. cit.*, p. 89.

DEET will still have a role in accreditation, acceptance forms and things like that but the processing - be it the processing of visa applications, dependants applications and extensions - is an immigration function and that is what we are taking back.⁷

5.14 A further shared area of concern between the Committee and the Industry Commission lay in the area of pre-entry screening of applicants and the establishment of an applicant's bona fides. The Committee considers that pre-entry screening of all applicants for visitor or temporary entry visas is an essential feature in maintaining control of visitor entry.

5.15 The introduction of PVA as a means of screening applicants for student visas from high risk countries has had a major impact in controlling student entry. Evidence received by the Industry Commission showed that, from the introduction of PVA (in August 1989) to September 1990 rejection rates from high risk countries rose to approximately 95% of all applications.⁸

5.16 The PVA acts as a bona fide test, and includes an assessment of financial viability. This assessment takes the form of the prepayment of fees as a means of demonstrating that the student is genuine about studying in Australia.

5.17 Dr Robert Birrell from Monash University indicated that the assessment of financial viability does not necessarily indicate the bona fides of an applicant for a student visa. Dr Birrell stated:

... we have the experience of the PRC [People's Republic of China] which indicates that despite the People's Republic being one of the poorest societies in the world in terms of per capita income, tens of thousands of students were nevertheless able one way or another to find the money to finance their investment here in up-front fees and accommodation ...⁹

7. Evidence, p. 1189.

8. Industry Commission, *op. cit.*, p. 76.

9. Evidence, p. 1281.

5.18 However, the ELICOS Association indicated that the prepayment of fees and expenses worked adequately as an indicator of bona fides. The Association argued:

... that, if people are able to prove that they can adequately pay for their course and adequately pay their living expenses while they are in Australia, there would be less possibility for breach of visa.¹⁰

5.19 In examining the issue of bona fides, the Industry Commission considered that prepayment of fees should not be required as part of the visa process. This would not, however, mean removing a financial test from PVA. The Commission stated that:

DILGEA would still have to develop a more accurate bona fides test, which would include ensuring that students arrived with sufficient funds.¹¹

5.20 DILGEA gave the following evidence to the Industry Commission:

... a review of the PVA is currently underway by a working group comprising representatives from DEET, DFAT, and DILGEA. The Working Group will report to relevant Ministers in the near future. One of its recommendations is likely to be that, if financial viability is included as part of a bona fide test, prepayment is not necessary as a precondition to visa issue. DILGEA supports this approach but has concerns about the practical difficulties of applying a financial test (perhaps the introduction of a requirement to provide evidence of transfer of funds may be an option) and that adequate mechanisms be in place to ensure timely reporting of change of course, non-attendance and transfer between Category A and Category B courses.¹²

5.21 The Committee is of the view that PVA of applicants for student entry to Australia should continue and that a test of financial viability should be one of the criteria for that assessment. The Committee believes that it is particularly

10. Evidence, p. 1200.

11. Industry Commission, op. cit., p. 79.

12. ibid.

important that PVAs of students enrolling in non-formal courses be rigorously maintained.

5.22 While the prepayment of fees does not necessarily act as a reliable indicator of bona fides, the Committee agrees with the statement made by the Industry Commission that DILGEA should ensure that students have sufficient funds to comply with their visa conditions. Where appropriate, bank guarantees should be accepted, in addition to prepayment of fees and bonds.

5.23 The Committee notes that the PVA is currently under review by the Working Group referred to by DILGEA in evidence to the Industry Commission. The Committee considers that this Group should include in its review the continuance of a financial viability criterion in the PVA.

5.24 The Committee therefore recommends that:

the Working Group of representatives of the Department of Employment, Education and Training, the Department of Foreign Affairs and Trade and the Department of Immigration, Local Government and Ethnic Affairs reviewing Pre-Visa Assessment criteria for short, non-formal studies application, examine the retention of the prepayment of fees, introduction of bonds or bank guarantees as a financial viability test in the Pre-Visa Assessment.

5.25 In examining immigration controls on the education industry, there is a requirement to strike a balance between the need to minimise the cost of excessive illegal immigration and discouraging as few genuine students as possible.¹³

5.26 The introduction of stricter immigration controls since 1989 and the progressive transfer of administrative responsibility for immigration aspects of the industry to DILGEA have brought the abuse of student entry provisions under control. The Committee therefore supports the recommendations of the Industry Commission which relate to the administration of immigration aspects of the industry being transferred to DILGEA.

13. Industry Commission, op. cit., p. 69.

Overstaying and Student Entry

5.27 The major problem associated with the export of education services is the number of overstayers who have entered Australia on student visas.

5.28 The limited immigration controls that were a feature of the industry prior to 1986 resulted in the perception that obtaining a student visa provided a mechanism for 'queue jumping' and gaining permanent entry into Australia. This situation was compounded by overlapping areas of administration between DEET and DILGEA, in which DEET assumed much of the responsibility for compliance activity.¹⁴ It is clear there were significant problems for DILGEA and the education export industry.

5.29 In examining this issue the Industry Commission noted that, while significant problems had existed because students were overstaying in Australia, the tightening of immigration controls in 1989 has reduced these problems, as has better targeting of source countries. The Commission further noted that overstay rates have generally fallen, but problems of compatibility, quality and timeliness of data make it difficult to judge whether they have stabilised.¹⁵

5.30 In the early stages of the export of education services, the lax administration and lack of clear demarcation between DEET and DILGEA in the administration of immigration controls over the issuing of student visas provided an avenue of illegal entry into Australia. With the transfer of compliance activity to DILGEA more rigorous compliance activity will be undertaken to reduce the number of student overstayers. As noted in the previous chapter, DILGEA's increased compliance activity has sent a signal to overstayers that compliance with temporary entry visa conditions will be enforced. Recent changes to the *Migration Act 1958* have given DILGEA much stronger powers which will assist the Department in checking attendance records of overseas students, and tracing the whereabouts of overstayers.

Asylum

5.31 In his submission, Dr Robert Birrell raised the issue of the possible use of asylum provisions in the *Migration Act 1958* by persons holding student visas

14. Evidence, pp. 1182, 1205.

15. Industry Commission, op. cit., pp. 2-3.

as a means of gaining permanent entry into Australia. Dr Birrell stated in evidence:

At the moment, there is no breakdown on the category in which the people who applied for asylum entered Australia. It was some 21,000 as of September [1991] and no doubt it has increased since then. I understand from DILGEA that at the moment there are not many students, apart from the PRC of course, who have actually used that route to protect themselves when apprehended or otherwise ... If most of those post-Tianenmen students do eventually get four year temporary entry permits, that will send a very strong signal to others that this is a route to delay exit from this country or potentially get residence.¹⁶

5.32 In evidence given to the Joint Standing Committee on Migration Regulations (JSCMR), as part of its Inquiry into Refugee/Humanitarian Visas and Permits, DILGEA stated that:

... before the problems created by Tianenmen Square, et cetera, we were looking at 500 applications a year. We expect after the Chinese group moves through the system to be dealing with about 6,000 a year ... Australia is experiencing the same phenomenon as other countries, where people are coming here and seeking to stay and using the asylum route as a convenient route ... our experience before, when we had 500 a year, was that between 5 and 15% were found to be refugees.¹⁷

5.33 Decisions concerning refugee and asylum status are made on a case-by-case basis which can become a lengthy process. The time taken to process cases could lead to the perception that an application for refugee status or grant of asylum can lead to an extended stay in Australia, which adds weight to any other claim. Further evidence given to the JSCMR states that DILGEA intends to clear the backlog in two years.¹⁸ However, the Public Accounts Committee is concerned at the expected high level of refugee/asylum claims which is expected to continue after this backlog is cleared.

16. Evidence, p. 1281.

17. Joint Standing Committee on Migration Regulations, Hansard, Thursday, 24 October 1991, p. 194.

18. *ibid.*, p. 184.

5.34 DILGEA compiles its asylum statistics by the applicants' countries of origin and does not record the category of entry by which an applicant entered Australia. The Committee considers that this category should be included in the statistical analysis of asylum seekers to monitor the use of asylum provisions by holders of student visas.

5.35 The Committee therefore recommends that

the Department of Immigration, Local Government and Ethnic Affairs, when preparing statistics on persons seeking asylum in Australia, include an analysis of categories under which asylum seekers gain entry into Australia.

Criminal Activity and Student Entry

5.36 As part of the evidence presented to the Committee concerning the abuse of visitor and temporary entry visa conditions, the Committee also heard evidence that linked persons entering Australia on student visas with criminal activity.

5.37 Restricted bona fide checking of applicants for student visas resulted in the entry of persons who sought to work illegally or engage in criminal activity, including prostitution and smuggling. Evidence from the AFP referred to in the previous chapter (see paragraph 4.43) indicates that the numbers of persons engaging in these activities is small relative to the overall number of visas issued.

5.38 The Committee is concerned that a number of persons arriving in Australia on student entry visas have not complied with their visa conditions, have been working illegally in Australia, and have been engaged in criminal activities. It is clear that the numbers of persons involved in these activities is relatively low compared to the overall numbers of persons granted student visas.

Diagnostic Study by the Australian National Audit Office

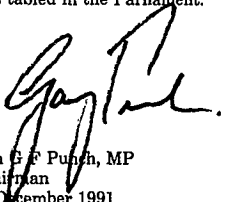
5.39 The ANAO's Report No. 7 of 1991-92 - Report on Ministerial Portfolios: Budget Sitting 1991 stated that it had undertaken a diagnostic study of the Overseas Student (Full Fee Paying) Program in both DEET and DILGEA.

5.40 The study identified a number of deficiencies in the administration of this Program, citing as concerns:

- . the incomplete transfer of visa processing functions between the two departments;
- . insufficient liaison with educational institutions, notably on informing the institutions on changes to Government policy;
- . limitations in the ADP systems, for example the inability to transfer electronically information between DEET and DILGEA databases;
- . inconsistencies in interpretation of students attendance requirements; and
- . difficulties in enforcing visa conditions such as attending classes and not undertaking full time employment.

5.41 The ANAO, however, decided to defer a more detailed audit in view of the significant changes being made to the Overseas Student (Full Fee Paying) Program.¹⁹

5.42 The Committee concurs with the ANAO's conclusion that the administration of the export of education services by DEET and DILGEA is undergoing fundamental change, and that these changes must be given time to take effect before further examination can take place. The Committee notes, however, that the ANAO has indicated that the Overseas Student (Full Fee Paying) Program will be the subject of further investigation. Under the provisions of the *Public Accounts Committee Act 1951*, the Committee will examine the ANAO's Report after it is tabled in the Parliament.



Hon G F Punch, MP
Chairman
18 December 1991

19. The Auditor-General, Audit Report No.7, 1991-92, Report on Ministerial Portfolios - Budget Sitings 1991, AGPS, Canberra, 1991, p. 51.

· APPENDICES

SUBMISSIONS AND OTHER DOCUMENTATION

Listed below are organisations and individuals that provided the Committee with submissions and other documents. Some organisations made more than one submission.

Organisations

A D Morrison & Associates
Abitare Migration Services
Arnold Bloch Leibler
Australian Customs Service
Australian Federal Police
Australian Migration Consultants Association
Australian International Development Assistance Bureau
Australian Tourism Industry Association
Black Stag Deer Park
Business and Consumer Affairs, NSW
Canberra Development Board
Cannan and Peterson
Commissioner of Taxation, Australian Taxation Office
Department of Accounting and Business Computing, Phillip Institute of Technology
Department of Foreign Affairs and Trade
Department of Immigration, Local Government and Ethnic Affairs
Department of Industry, Technology and Commerce
Department of State Development and Technology, SA
Elicos Association Limited
Enterprise Consulting Services
Export & Commercial Research Services Pty Ltd
FBR Pty Ltd
Gilton Business Consultants
Goldsmiths Solicitors
Hodges Harding and Associates
Hon Wayne Goss MLA, Premier of Queensland
Hugh Ramsay Consulting
Human Rights Australia
National Crime Authority
Northstate Partners
Office of Youth, Sport, Recreation & Ethnic Affairs, NT
Overseas Business Ventures Australia Pty Ltd
Small Business Development Corporation, QLD
South Australia Police Department
South Coast Employment Development Project

Sri Lankan Organisation for National Harmony
State Drug Crime Commission of New South Wales
State Intelligence Group, New South Wales Police Service
Tasmania Police
The Australian Chamber of Commerce
The Returned Services League of Australia

Individuals

Dr Robert Birrell
Dr Roger Newman
Mr Gary Tucek
Mrs Corazan P Kuhle

In addition, confidential submissions have been considered by the Committee.

PUBLIC HEARINGS AND WITNESSES

Business Migration Program

Date of Hearing	Witnesses:
19 October 1990	<p>Australian International Development Assistance Bureau</p> <p>Mr R N Kelloway, Director, Equity and Merit Scholarship Scheme</p> <p>Mr C E T Terrell, Deputy Director General, Country Programs Division</p> <p>Mr L Watters, Director, Overseas Student Services Section</p> <p>Canberra Development Board</p> <p>Mr P Cheng, Board Member</p> <p>Mr J F Muir, Chairman</p> <p>Mr S P Saunders, Director, Secretariat</p> <p>Department of Immigration, Local Government and Ethnic Affairs</p> <p>Mr L K Bugden, Assistant Secretary, Compliance Branch</p> <p>Mr C Conybeare, Secretary</p> <p>Mr P Hughes, Assistant Secretary, Central Operations Branch</p> <p>Mr D J Moorhouse, Director, Entry Control Section</p> <p>Mr R K Muir, Director, Visa Systems</p>

Mr M A Sullivan, First Assistant Secretary,
Operations Management Division

Export & Commercial Research Services Pty Ltd

Mr G Binkowski, Accredited Migration Agent

Mr G Savas, Accredited Migration Agent

9 November 1990

FBR Pty Ltd

Mr N Page, Chief Executive Officer

29 November 1990

Australian Migration Consultants Association

Miss P Mathewson, National President

Gilton Business Consultants

Mr J M Gillespie, Principal

Hugh Ramsay Consulting Pty Ltd

Mr R H Ramsay, Director

**State Intelligence Group, New South Wales
Police Service**

Detective Sergeant R C Clark

Chief Superintendent B W Johnston

Overseas Business Ventures Australia Pty Ltd

Ms M D Kovac, Business Migration Manager,

Dr W P Osborne, Managing Director

30 November 1990

Dr R Birrell, Senior Lecturer in Sociology,
Monash University

Mr G M Tucek

- 18 February 1991**
- New South Wales Business and Consumer Affairs**
- Mr R A Benedet, Manager, International Business Development
- Mr M J Drenth, Chief Development Officer
- Mr B Hanks, Senior Consultant,
- 28 February 1991**
- Cannan and Peterson**
- Hon M J Ahern, Consultant
- Mr D R Boyd, Managing Partner
- Department of the Premier, Economic and Trade Development, Qld**
- Mr R McAlary, Director, Trade and Investment Development
- Mr J Reinders, Business Migration
- Hodges Harding and Associates**
- Hon J C Hodges
- Queensland Small Business Corporation**
- Mr D J Kelleher, Deputy General Manager and Manager of Corporate Services
- Mrs S Miller, Researcher
- Mr C M Thomson, Manager, Business Services
- 22 March 1991**
- Ms B M Smith, Lecturer, School of Business, Phillip Institute of Technology**
- 24 April 1991**
- Australian Taxation Office**
- Mr G J Doughty, Acting First Assistant Commissioner, Taxpayer Assistance Group

Mr H Hepburn, Senior Officer Grade C, Audit Group

Mr V T Mitchell, First Assistant Commissioner (Taxpayer Audit),

Australian Federal Police

Commander A C Wells

Department of Foreign Affairs and Trade

Mr J C Blount, Director, Refugees, Immigration and Asylum Section

Mr I K Forsyth, Acting Principal Adviser, Economic and Trade Development Division

Department of Industry, Technology and Commerce

Mr J R Austen, Director, Investment Promotion Section, International Division

Mr M H Farrow, First Assistant Secretary, International Division

Ms D M Wicks, Assistant Director, Investment Promotion Section, International Division

17 May 1991

Department of Immigration, Local Government and Ethnic Affairs

Mr L K Bugden, Assistant Secretary, Compliance Branch

Mr C Conybeare, Secretary

Mr C Doepel, Assistant Secretary, Legislation and Review Branch

Mr P G Hughes, Assistant Secretary, Migrant Entry and Citizenship Branch

Mr M A Sullivan, First Assistant Secretary, Temporary Entry Compliance and Systems Division

Mr D G Wheen, First Assistant Secretary,
Migration Division

4 June 1991

Australian Federal Police

Mr M B McGreevey, Chief Analyst, Intelligence
Division

Commander A C Wells, Officer-in-Charge, Fraud
and General Crime Division

Control of Visitor Entry

Witnesses:

24 October 1991

Australian Customs Service

Mr L G Jones, National Manager, Passenger
Processing

Mr J R Maloney, Regional Manager, Passenger
Processing, New South Wales

Department of Immigration, Local Government
and Ethnic Affairs

Mr W J Gibbons, Acting Secretary

Mr E Joseph, Assistant Secretary, Visitor and
Temporary Entry Branch

Mr D J Moorhouse, Director, Entry Control
Section

Mr M A Sullivan, First Assistant Secretary,
Temporary Entry, Compliance and Systems

ELICOS Association Limited

Ms C M Bundesen, Chair

Ms G Styles, Deputy Chair

6 November 1991

Australian Federal Police

Mr M B McGreevey, Chief Analyst, Intelligence
Division

**Commander J G Valentin, Officer-in-Charge,
National Intelligence Division**

New South Wales Police Service

**Detective Sergeant R Clark, Tactical Intelligence,
State Intelligence Group**

**Detective Chief Inspector R I Treharne, Acting
Commander, State Intelligence Group**

7 November 1991

**Dr R Birrell
Senior Lecturer, Department of Sociology and
Anthropology, Monash University**

Observers for the Public Hearings:

Australian National Audit Office

**Mr D S Lennie
Mr G Koehne**

Department of Finance

**Mr K McAndrew
Mr A K Rizvi
Mr A K Warren
Mr G Breene
Mr R De Ferranti**

APPENDIX 3

Letter from the Department of Immigration, Local Government and Ethnic Affairs dated 15 August 1989.



COMMONWEALTH OF AUSTRALIA
DEPARTMENT OF IMMIGRATION, LOCAL GOVERNMENT
AND ETHNIC AFFAIRS

OFFICE OF THE SECRETARY
CANBERRA, A.C.T.



15 AUG 1989

Mr T Rowe
Secretary
Joint Parliamentary Committee
of Public Accounts
Parliament House
CANBERRA ACT 2600

Dear Mr Rowe

I refer to the letter forwarded to me by the Acting Secretary of the Public Accounts Committee on 16 May last, in relation to the Auditor-General's April 1989 Report. The Committee had determined that it should write to me expressing its concern over matters raised in that report relative to this Department.

I believe it is important to point out, at the outset, that many of the factors reported on by the Auditor-General were brought to notice by my Department and the Auditor-General informed of solutions which we had either put in place or were progressing towards. I think it is also important to note that despite what the Auditor-General referred to as "deficiencies", Audit checks of overseas and domestic operations of the Department found no evidence that our system of visitor entry had failed.

The vehicle for the Department's review of many aspects of visitor entry has been the development of a Master Plan for Passenger Processing. That Plan was endorsed by Government in August of 1988. The Master Plan involved a total look at visa issue procedures as well as processes applied at entry and departure points in Australia. The Plan endorsed by Government is one which relies heavily on computerisation of many of our processes which were formerly, manually undertaken. Computerisation also enables us to put in place far more efficient and effective checks on persons seeking to enter or depart Australia.

For example, the concerns expressed by the Auditor-General in relation to the Migrant Alert Lists have been comprehensively addressed in the context of the Master Plan. Under the Master Plan alert lists are checked prior to visa issue and visa data transmitted to Australia in advance of the visa holder arriving. Prior to arrival of the traveller, visa data will again be checked against more comprehensive alert lists. The immigration directive, which will be conveyed to the entry point when that visa is presented, will determine whether entry should be granted or the case should be referred to immigration officers for secondary examination. By these means our capacity to intercept and appropriately handle cases where a person on our alert lists comes to notice will be greatly enhanced and the probability of persons evading that screen minimised.

In addition, the development of our computer systems to support entry and departure processing, and the capacity to incorporate migrant alert lists into those systems will obviate the necessity for manually transferring Migrant Alert List information to the Australian Customs Service PASS system; a process which the Auditor-General expressed some concerns about. The computer based systems which support Immigration's role in the Master Plan for Passenger Processing will also enable the Department to determine whether a new entrant onto the Migrant Alert List does, in fact, hold a valid visa for travel to Australia which may have been issued prior to their coming to notice and being placed on the Migrant Alert List. Such prior warning enables us to take action to cancel the visa if that is considered appropriate or to ensure that the appropriate advice is conveyed to entry points should the visa be presented for entry to Australia. Again, computerisation has enabled us to significantly tighten up the entry processes and minimise the potentiality of entry to Australia by persons who may pose some threat or harm to the Australian community.

I think it would also be of relevance to the Public Accounts Committee to note the productivity gains which have flowed from computerisation of our visa issue processes overseas. The Department has been able to handle increases in visa workload of over 50% in the last two financial years with relatively small increases in staffing. This point was recognised by the Auditor-General in his report. These computer based systems have also provided overseas posts with enhanced management, statistical and audit capabilities.

Let me now address some of the specific concerns expressed by the Auditor-General. The concern about possible override of alerts in visa issue has been addressed in the upgraded version of our Immigration Records and Information System (IRIS). This issue primarily arises from the name matching

algorithms applied to visa issue. The problem outlined by the Auditor-General largely arises from the presentation of a large number of possible name matches and a human failing to study that long list critically. As part of our system upgrade, an enhanced name matching capability is under development which will more sharply focus possible matches and enable system capability to reduce the possibility of ignoring alerts.

We are considering the possibility of "freezing" the processing system when a likely match is produced, but we need to weigh the impact of such a step against the delays generated.

With regard to the single user identification code being used to operate simultaneously more than one IRIS terminal, this is no longer possible with the upgraded IRIS.

As outlined above, our contribution to the development of the Master Plan for Passenger Processing has addressed many of the concerns expressed by the Auditor-General about the Migrant Alert List. It is the case that some entries to the Alert List were less than optimum and delayed. Resources had been dedicated to bring entries up to date and forms had been revised to ensure uniformly acceptable data entries. This action was also acknowledged by the Auditor-General.

The Master Plan for passenger processing also incorporates the concept of an Entry Control Centre within my Department. The role of the Entry Control Centre will include the day to day management of the various data bases which impinge on the entry and departure process. This includes the receipt of visa data from overseas, the management of any alerts arising from the check of any visa data against our warning lists, and the dissemination of additions to our warning lists. With regard to this latter point it is expected that with the resolution of appropriate security considerations, we will have the capacity of using electronic means of informing overseas posts of additions to our warning lists. The Entry Control Centre will also provide the management of Migrant Alert List data outlined by the Auditor-General in terms of additions, deletions and duration of listings.

Refinement of the structure of the Entry Control Centre is proceeding and I would expect that Centre to commence operation towards the end of this year. That start up of operations will be in advance of the switch on of systems which will support the immigration function at entry control points currently scheduled for the second quarter of 1990.

At a more general level, I think it is fair to say that the Australian visa and entry system is regarded by immigration authorities in other countries as the most advanced and the most successful in the world. The machine readable format of the Australian visa has been followed for example by Canada, the FRG, and Sweden. More recently decisions have been made by the United States to follow a similar format.

If you should require any further clarification I would be pleased to assist. Could I suggest that if you have any further queries you might contact Mr Wayne Gibbons, First Assistant Secretary, Development and Systems Division, telephone 642525.

Yours sincerely



RON BROWN