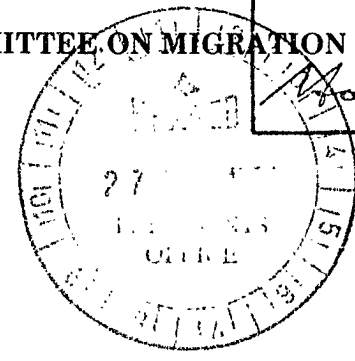
The Parliament of the Commonwealth of Australia

JOINT STANDING COMMITTEE ON MIGRATION



AUSTRALIA'S VISA SYSTEM FOR VISITORS

January 1996

Australian Government Publishing Service
Canberra

The Parliament of the Commonwealth of Australia

Australia's Visa System for Visitors

JANUARY 1996

Joint Standing Committee on Migration

The Parliament of the Commonwealth of Australia

JOINT STANDING COMMITTEE ON MIGRATION

AUSTRALIA'S VISA SYSTEM FOR VISITORS

January 1996

Australian Government Publishing Service
Canberra

ISBN 0 644 34607 8

Produced by the Australian Government Publishing Service

FOREWORD

The requirement for visitors to obtain a visa prior to their travel to Australia has been the focus of some recent debate within the community, particularly among representatives of the Australian tourism industry. As Australia competes for a larger share of the international tourist market, it has been claimed that visas act as an impediment to tourism. The counter argument has been that visas facilitate passenger processing and prevent the entry of persons who would be likely to pose a threat to the Australian community.

Over the past 18 months, the Joint Standing Committee on Migration has been conducting a comprehensive inquiry into Australia's visa system for visitors. The Committee's review has focused on the efficiency and effectiveness of the existing system and whether that system should be retained or whether alternative arrangements should be introduced. This report presents the Committee's conclusions and recommendations in this regard.

In arriving at its conclusions, the Committee has considered the totality of evidence presented during the inquiry. The Committee has attempted to balance the competing arguments for retaining and modifying the visitor visa system in order to provide an outcome which is in the best interests of all Australians.

The Committee's recommendations provide a realistic framework for the development of appropriate mechanisms by which visitor entry to Australia can be managed in the future.

No doubt this report will generate further debate. The Committee's findings encourage further consideration of the complex issues which were before the Committee.

This report should not be regarded as the final step on the journey to creating a more efficient and effective visitor entry system which facilitates travel and maintains appropriate safeguards for the community. Rather, it represents a passport to the future through which the challenges of visitor entry can be addressed.

SENATOR JIM McKIERNAN
CHAIRMAN

ACKNOWLEDGMENTS

The Committee expresses its appreciation to all those who contributed to the inquiry by providing submissions and attending at public hearings.

The Committee is grateful to the Committee Secretary, Mr Andres Lomp, and the Committee secretariat for their high quality and professional work. The secretariat included Mr Stephen Boyd, Ms Sophia Konti and Ms Lexia Noakes.

Special thanks are due to the Committee's legal adviser, Dr Kathryn Cronin, and to Ms Kristine Cala, who was seconded from the Department of Immigration and Ethnic Affairs to work on the inquiry. Their expert advice and comprehensive assistance was of particular value to the Committee. The co-operation of the Department of Immigration and Ethnic Affairs in arranging Ms Cala's secondment is appreciated.

The Committee also is grateful to its parliamentary intern, Mr Norman Beecroft, who prepared a research paper on the visa systems of overseas countries.

CONTENTS

SECTION TWO—
OVERVIEW OF AUSTRALIA'S VISA SYSTEM FOR VISITORS

Chapter Three: Australia's Visitor Profile

Chapter Four: The Regulatory Framework

Chapter Five: The Entry System

SECTION THREE—
THE FUTURE OF AUSTRALIA'S VISA SYSTEM FOR VISITORS

Chapter Six: Options For The Future

Chapter Seven: Enhancing Visitor Entry

MEMBERSHIP OF THE JOINT STANDING COMMITTEE ON MIGRATION

Chairman:	Senator Jim McKiernan
Deputy Chairman:	Senator Jim Short
Members:	Senator Barney Cooney Mr Laurie Ferguson, MP Hon Clyde Holding, MP Mr Philip Ruddock, MP Rt Hon Ian Sinclair, MP Mrs Kathy Sullivan, MP Mr Harry Woods, MP
Secretary:	Mr Andres Lomp
Legal Adviser:	Dr Kathryn Cronin
Adviser:	Ms Kristine Cala
Inquiry Staff:	Mr Stephen Boyd Ms Sophia Konti Ms Lexia Noakes

TERMS OF REFERENCE

To inquire into and report on the operation of Australia's visa system for visitors, with particular reference to:

(a) the degree to which the visitor visa system meets the requirements of travel facilitation and border integrity;

(b) the efficiency and cost effectiveness of the visitor visa system;

(c) the impact of the visitor visa arrangements on Australia's bilateral relations;

(d) possible alternatives to the visitor visa system, including the option of visa free travel or multiple entry visas;

(e) the potential, if any, for increased illegal entry under visa free tourist travel arrangements; and

(f) the impact on the Australian community of the present and any alternative visitor visa arrangements, with particular regard to security and criminal checking of passengers and the facilitation of overseas travel for Australians.

ABBREVIATIONS

AFP	Australian Federal Police
APC	Advance Passenger Clearance
APEC	Australia-Pacific Economic Cooperation
ATC	Australian Tourist Commission
Committee	Joint Standing Committee on Migration
Customs	Australian Customs Service
DFAT	Department of Foreign Affairs and Trade
DIEA	Department of Immigration and Ethnic Affairs
FAST	Future Automated Screening for Travellers
FECCA	Federation of Ethnic Communities' Council of Australia
IARC	Immigration Advice and Rights Centre Incorporated
INS	Immigration and Naturalization Service
IRIS	Immigration Records Information System
IRT	Immigration Review Tribunal
ITOA	Inbound Tourism Organisation of Australia Limited
MAL	Movements Alert List (formerly Migrant Alert List)
NCA	National Crime Authority
OECD	Organisation for Economic Cooperation and Development
PASS	Passenger Automated Selection System
Qantas	Qantas Airways Limited
TRIPS	Travel and Immigration Processing System
VIARC	Victorian Immigration Advice and Rights Centre Inc.

CONCLUSIONS AND RECOMMENDATIONS

The Future Of Australia's Visa System For Visitors

Options For The Future (Chapter Six)

Australia's emergence as a major world travel destination has presented significant challenges for those charged with the responsibility of managing the movement of people across Australia's borders. The principal challenge is to facilitate the entry to Australia of an increasing number of visitors while excluding those who threaten the interests of the Australian community.

In order to meet this dual challenge, immigration authorities progressively have changed the processes by which visitors are granted permission to travel to, enter and stay in Australia. The visa system for visitors no longer is predicated on the need to obtain detailed information on bona fides from all passengers. A significant proportion of prospective visitors now fill out abbreviated application forms and are no longer required to provide photographs with their applications. The electronic travel authority will do away with application forms altogether for certain visitors. In addition, for the majority of intending visitors, interviews are a thing of the past. Instead, the Migration Regulations now require particular applicants who come within a risk factor profile to provide fuller information in relation to their applications, leaving the majority to be assessed under simplified and expeditious processes.

Visa issuance has been modified and modernised. The widespread use of machine-readable passports and visas reduces errors in the collection and collation of data. Technology allows for automatic checking of all applicants against a database of known or suspected criminals and immigration offenders. Australia is at the cutting edge in the use of such technology for immigration purposes. Agency arrangements make visa issuance more accessible to passengers and a less visible part of the travel process. Agents note the passenger's details and transfer those details to DIEA, either electronically or by courier. DIEA assesses the application in the brief time that it takes to check the name and documentation against alert lists. As a result, the new visa arrangements for visitors are less of an irritant for travellers.

In light of these changes, the debate during this inquiry was focused mainly on whether immigration authorities have gone far enough in streamlining visitor entry processes, or whether they should take the further step of abolishing the visa requirement for all or selected visitors. A separate but no less relevant concern is whether the processes for scrutiny of visitors to Australia have been downgraded to such an extent that they no longer provide sufficient protection against the entry of those who are likely to pose a risk to the Australian community.

In seeking to resolve these issues, the Committee was of the view that it is essential for Australia to retain an effective filter which facilitates the entry of genuine visitors, but protects against those who would be likely to pose a criminal, security or health risk to the community or offend against Australia's immigration laws. The fundamental question for the Committee was whether a universal visa system is necessary to deliver such a filter.

Clearly, the universal visa requirement, coupled with Australia's geographic position as an island continent, provides Australia with an important advantage in managing its borders. Australian authorities presently are able to obtain advance information concerning virtually all non-citizens arriving in Australia prior to their travel. This provides the opportunity for the early detection and exclusion from Australia of undesirable or unacceptable persons.

Another benefit of the visa system is that it eliminates the need to collect data about passengers at the border, thereby facilitating the passenger clearance process on arrival. If immigration assessments were to be carried out for the first time at the border rather than offshore, entry clearance officers would need to ascertain passenger identity details at the border and conduct relevant checks. There is no doubt that this would increase processing times. Delays are likely to arise particularly for people whose first language is not English. Such people comprise a growing proportion of visitors to Australia.

Offshore processing also reduces the incidence of people being turned around at the border. This is a significant benefit given that most passengers travel a long distance and outlay significant funds in order to visit Australia.

In addition, the visa system provides accurate data for use by various government agencies. Such information can assist in detecting and tracing visitors who engage in criminal activities or who overstay or breach their entry conditions. The Committee notes DIEA's advice that high quality data is available only by virtue of the existing visa system.

While recognising the benefits of the visa system, the Committee accepts that there are certain disadvantages associated with it. It is clear that the costs of offshore visa processing are substantial and are likely to increase significantly as demand for visitor visas grows over the next decade. There also is a perception, at least among some sections of the community, that visas are impeding tourism growth and creating a negative impression of Australia.

During the inquiry, it was asserted repeatedly by some tourism industry representatives that Australia was failing to improve its share of the international tourist market because prospective visitors were deterred from travelling to Australia by the inconvenience associated with obtaining a visa. The further claim was that countries which allow visa free travel or have visa waiver arrangements were increasing their share of the tourist market at the expense of Australia.

One of the difficulties faced by the Committee was that the claims from the tourism industry were not supported by concrete evidence. The Committee requested but was not presented with any detailed information to show the extent to which visas are a motivating factor in a traveller's decision as to which travel destination is selected. Representatives of the tourism industry also were unable to explain why the number of visitors to Australia had grown at such an exceptional rate over the past decade if visas were such an important factor in the choice of travel destination. While they claimed that tourist growth would have been even greater without a visa requirement, again no substantive evidence was provided in support of that claim. Indeed, statistics provided by DIEA showed that in the 12 months to April 1994, visitor arrivals to Australia increased by 15.5 per cent compared to New Zealand's increase of 11.6 per cent. As for individual country figures, in the case of Japanese visitors, for example, the number arriving in Australia during that period totalled 686 671, compared to 141 646 arriving in New Zealand.

Further, the communique issued after the tourism summit held in Japan in October 1995 clearly indicated that visas are simply one matter requiring attention. Indeed, it was the last matter mentioned in the communique (see paragraph 6.71). Given that the communique noted a long list of issues which the tourism industry itself needs to address if tourism growth to Australia is to be encouraged, it was difficult for the Committee to accept that the visa requirement is a primary inhibitor of tourism growth.

Despite the lack of concrete evidence concerning the impact of visas on tourist growth, the Committee actively considered whether visa free travel arrangements, either for all visitors or visitors from designated countries, would be viable and would result in tangible benefits to Australia.

While a number of witnesses claimed that the introduction of visa free travel arrangements has contributed to tourism growth in countries which have implemented such arrangements, those claims could not be verified due to the selective and at times contrasting evidence available to the Committee. In relation to the United States, for example, some information was available concerning visitor growth rates following the introduction of its visa waiver pilot program. As noted in Chapter Two, the Under Secretary of Commerce for Travel and Tourism reported to a congressional committee that visitor arrivals from nine visa waiver countries had increased by 774 per cent between 1988 and 1993, compared with a general visitor growth rate of 49 per cent during that same period. However, no information was provided on the rates of visitor growth from the other 14 visa waiver countries. At the same time, the Under Secretary suggested that the United States was losing its share of the tourist market in certain countries not included in the program. He claimed, for example, that Korean visitors, presently not eligible for a visa waiver, were travelling to Australia and Canada in preference to the United States because of the ease with which they are able to obtain visas for Australia and enter Canada without visas. As for New Zealand, the Committee was told that the New Zealand Tourism Board had a 'gut feeling' that visa free arrangements have

contributed to tourism growth, but the Committee was not provided with statistical evidence in support of that claim.

While the evidence from the United States suggests that visa waiver arrangements can result in visitor growth, it was not possible to be conclusive on this point due to the limitations in the statistical and other evidence on visitor growth from visa free and non-visa free countries. It was not possible to ascertain with confidence the extent to which visa free arrangements might have contributed to any rise in tourist numbers, or the degree to which other factors may have influenced any increase. Given that countries which have implemented visa free arrangements are experiencing differing levels of visitor growth from various of the visa free countries, it is more than likely that there are a range of factors responsible for such growth.

As for the costs of the visa system, little evidence was available to the Committee on whether a selective visa free system would result in cost benefits or cost increases. A selective visa free system undoubtedly would result in savings in overseas resources devoted to visitor visa processing, particularly staffing resources. Various witnesses, however, argued that there would be a consequential increase in onshore costs that would exceed the offshore savings that might be made. It was suggested, for example, that longer processing times would arise at entry control points, requiring additional staff to handle the workload and possibly additional infrastructure at airports. While this was not quantified, it was considered significant that the Immigration and Naturalization Service in the United States has had a fourfold increase in staffing at airports since the introduction of their visa waiver pilot program.

It also was difficult to estimate whether visa free travel arrangements would increase the number of overstayers in Australia or the numbers applying for residence status on refugee, spouse or other grounds from within Australia. There also was little information on whether visa free arrangements would have any impact on the entry of criminals. Evidence from countries which operate visa free arrangements was inconclusive on these matters. In particular, while some witnesses suggested that New Zealand has not experienced any increase in overstay problems or visitor related crime since its recent introduction of visa free arrangements, no concrete data was available to support these claims.

On this point, the Committee was concerned that, even under current arrangements, there have been worrying instances of criminal elements gaining access to Australia. Visitor overstay also continues to be a problem, although total overstay numbers have been declining in recent years. In addition, there has been a continuing incidence of onshore asylum applications by visitors. These are matters which need to be taken into account in determining the future of the visitor visa system.

Attention also must be paid to Australia's bilateral relations. In this regard, contrasting views were put to the Committee about whether selective visa free travel arrangements would impact on Australia's relations with other countries, particularly if certain countries in our region were not included in such

arrangements. Again, much of the evidence received in this regard was speculative. Advice from DFAT suggested that the potential damage to bilateral relations from implementing a selective visa free system could be contained if visa free countries were selected on the basis of transparent and objective criteria and provided that adequate consultations were undertaken with relevant countries. At the same time, the Committee heeded DFAT's warning that the decision to establish a selective visa free system could affect some of Australia's most important relationships in the region.

While a number of witnesses suggested that the experience of other countries should sway the Committee in favour of a selective visa free arrangement, the available evidence was limited. In particular, there was a lack of statistical evidence which would have allowed a proper assessment as to the impact of visa free arrangements in those countries which have adopted such arrangements.

During the inquiry, witnesses arguing in favour of selective visa free arrangements adopted by other countries did not take into account the particular circumstances of those countries. European Union countries, for example, may have relaxed their border controls, but have in place after entry controls, including hotel registration systems and identity cards for their own citizens and residents. As for New Zealand, it has the particular advantage that around 80 per cent of its visitors arrive via Australia and, therefore, have been screened through Australian entry processes.

Overall, there was little objective evidence concerning the likely impact of introducing visa free travel arrangements in the Australian context. In the Committee's view, this does not rule out the option of introducing such arrangements. However, any such decision requires careful evaluation and should be taken only if there is clear evidence which indicates that the change is warranted and will be beneficial. On this point, some Committee members were concerned particularly about the ramifications of adopting a visitor entry system which discriminates in favour of certain countries.

It also needs to be recognised that once the decision is made to implement visa free travel arrangements, it would be impracticable and politically untenable to reimpose visa requirements on any or all previously exempted countries. The experience of the United States, as evidenced in the congressional debates on the continuation and extension of its visa waiver pilot program, supports this view.

From the available evidence, it was not clear that visa free travel arrangements are the best option for Australia at the present time. The Committee is concerned particularly about the impact such arrangements would have on the timeliness of the passenger clearance process and on Australia's bilateral relations. In addition, DIEA's recent changes to the visa system need to be given a chance to operate before a judgment can be made on whether those changes provide the optimum framework for managing visitor entry to Australia.

In the Committee's view, the debate should not get bogged down on the issue of visa versus visa free. Rather, the focus should be on ensuring that Australia has in place a visitor entry system which does not present as an inconvenience to travellers, either before they embark on their journey or upon arrival in Australia, and which maintains the appropriate safeguards to ensure that undesirable persons, including those who might be overstayers, are prevented from entering Australia. In the Committee's view, the fundamental changes to the visa system which are being introduced, including agency arrangements, advance passenger clearance and the electronic travel authority, appear to be a step in this direction.

DIEA's efforts in modernising and simplifying the visa process appear to be an important compromise and, in the Committee's view, address some of the tourism industry's concerns regarding the visa system. From the evidence received by the Committee, those concerns had more to do with the inconvenience of obtaining a visa than with the principle of having a visa. Many of the changes being implemented by DIEA are aimed at creating a more efficient administrative process for visa issuance and thereby overcoming the inconvenience for visitors when they make their decision to travel to Australia and when they arrive in Australia. In particular, it is anticipated that the electronic visa issuance process will be as simple as making an airline or hotel reservation and will be available to a large percentage of visitors. It also is hoped that, after the initial capital outlay, the electronic travel authority should be inexpensive to operate and will constitute an expeditious and invisible visa process. At the same time, the electronic arrangement should retain the benefits associated with the receipt of advance information about visitors. It is hoped that the electronic travel authority, coupled with the broadening of agency arrangements and the introduction of advance passenger clearance, will strike an appropriate balance between the need to facilitate travel and maintain appropriate safeguards to protect the interests of the Australian community.

As these initiatives have been devised only recently and are being implemented progressively, it is unclear whether DIEA's expectations concerning their operation will be met. In the Committee's view, it would be imprudent to entertain any decision about the introduction of visa free travel arrangements before there is an opportunity to assess the outcomes arising from the introduction of agency arrangements, advance passenger clearance and the electronic travel authority. While the Committee is not recommending the introduction of visa free arrangements, it does not rule out the possible introduction of such arrangements in the future should an appropriate assessment of the revised visa arrangements show that they are not achieving the outcomes which are anticipated or desired. On this point, some Committee members remained unconvinced about the appropriateness of introducing selective visa free arrangements which would discriminate in favour of particular countries.

The Committee therefore concludes that a parliamentary inquiry into Australia's revised visitor visa arrangements be established to report by the end of 1997. The parliamentary committee undertaking that inquiry should assess the outcomes of the revised visa arrangements, including the operation of agency arrangements, advance passenger clearance and the electronic travel authority. Its principal task should be to determine whether those arrangements are achieving the objectives of facilitating travel, particularly in the lead up to the Sydney Olympic Games, safeguarding the interests of the Australian community, and allowing visitor access on a non-discriminatory basis. In this context, it also should determine whether visa free travel arrangements would provide a preferable visitor entry system for Australia.

To assist with the inquiry, detailed objective information needs to be collected which will allow for a proper assessment of the new visa arrangements to be made. DIEA should collect data on the extent to which visitors comply with Australia's immigration laws after their arrival in Australia. This compliance data should allow for the particular identification of those visitors who obtained their visas by way of agency arrangements or the electronic travel authority. This will enable an assessment to be made on the extent to which streamlined checking processes are impacting on levels of visitor overstay.

DIEA, in consultation with law enforcement agencies, also should collect data on the extent to which visitors engage in criminal or crime related activity after entry to Australia. Again, in this data there should be a capacity to identify those visitors who obtain visas through agency arrangements or by way of the electronic travel authority. This will enable a proper assessment to be made on the extent to which streamlined checking processes are impacting on the entry to Australia of criminals and their associates. In this regard, in Chapter Seven the Committee also has proposed that the Government pursue vigorously the transfer of improved criminal intelligence information with other countries.

DIEA also should undertake a full cost analysis of the revised visitor visa arrangements, detailing all relevant costs associated with maintaining offshore visa issuance, including infrastructure, agency and staffing costs. An attempt also should be made to quantify the cost savings offshore and the additional costs onshore which would arise were visa free travel arrangements to be implemented.

In addition, DIEA, in consultation with Customs, should collect detailed statistics on passenger processing times and associated costs, as well as data on whether there is a correlation between visitors who are processed under the streamlined visa arrangements and visitors who breach Australia's customs requirements

Data also should be sought from comparable overseas countries which have introduced visa free or visa waiver arrangements to allow an adequate analysis of such arrangements to be undertaken. Of particular relevance would be any information on the impact visa free arrangements have had on visitor growth

rates, passenger processing times and costs, visitor overstay rates and the numbers of visitor asylum claimants.

Further, information should be collected from overseas on the visitor entry arrangements applying in relation to the Atlanta Olympic Games and other major sporting events. This will be necessary to allow for the parliamentary inquiry to evaluate the type of visitor arrangements which will need to be in place to manage visitor entry during the Sydney Olympic Games.

At the same time, if the tourism industry is to advance its arguments for further modification of the visitor visa arrangements, it should collect, in preference to anecdote, objective information on the factors which influence levels of visitor growth to Australia. It should establish, on the basis of that information, the significance of visas in a traveller's choice of destination.

In the interim, it is crucial that DIEA press ahead with its streamlining and improvement of visa issuance processes to ensure that, for the traveller, the processes are as invisible and efficient as possible. In this regard, DIEA should take account of the Committee's recommendations for enhancing visitor entry detailed in Chapter Seven.

The Committee recommends that:

1. as a priority, the Department of Immigration and Ethnic Affairs streamline visa issuance processes to ensure that the visitor visa arrangements operate efficiently and with minimum inconvenience to visitors. This should include expanded arrangements for visa issuance, increased use of advance passenger clearance and widespread implementation of the electronic travel authority;

2. a parliamentary inquiry into Australia's revised visitor visa arrangements be established to report by the end of 1997. The parliamentary committee undertaking that inquiry should assess the operation and outcomes of the revised visitor visa arrangements, including agency arrangements, advance passenger clearance and the electronic travel authority. The committee should determine whether those arrangements are achieving the objectives of facilitating travel, particularly in the lead up to the Sydney Olympic Games, safeguarding the interests of the Australian community, and allowing visitor access on a non-discriminatory basis. The committee also should determine whether visa free travel arrangements would provide a preferable visitor entry system for Australia;

3. to enable a proper assessment of Australia's visitor entry arrangements within two years, the Department of Immigration and Ethnic Affairs, in consultation with other relevant Commonwealth agencies, collect a range of objective data necessary for such an assessment, including:

- **visa data which identifies the number of visitors issued with visas through agency arrangements or who arrive in Australia on an electronic travel authority;**
- **data on visitor overstay rates and associated compliance costs, including for overstaying visitors issued with bridging visas. This compliance data should identify the number of such visitors who were issued with visas through agency arrangements or who arrived in Australia with an electronic travel authority;**
- **data on criminal and crime related activity by visitors after arrival in Australia, again with the capacity to identify the number of such visitors who were issued with visas through agency arrangements or who arrived in Australia with an electronic travel authority;**
- **data on passenger processing times and associated costs, focusing particularly on any impact which the electronic travel authority may have on passenger processing at entry points;**
- **data on any correlation between visitors who are issued with visas through streamlined processing procedures and visitors who breach Australia's customs laws;**
- **a full cost analysis of operating the visitor visa system, with details of infrastructure and staffing costs;**
- **an analysis of cost savings offshore and additional costs onshore which could be anticipated under a visa free or selective visa free entry regime;**
- **similar statistical information on the operation and outcomes of visa free arrangements in comparable overseas countries; and**
- **information on the visitor arrangements introduced overseas for the Atlanta Olympic Games and other major sporting events; and**

4. **to assist in evaluating the impact of the visitor visa system on tourism to Australia, the tourism industry should collect objective information on the factors influencing levels of visitor growth to Australia and, on the basis of that information, establish the relevance of visas in a traveller's choice of destination.** (paragraph 6.159)

Enhancing Visitor Entry (Chapter Seven)

Visa delivery

The Committee agrees with the view, put to it in a variety of submissions, that if Australia is to retain its visa requirement for all visitors, then the processes for issuing visas must operate efficiently and expeditiously. In this regard, the Committee welcomes the range of initiatives which DIEA has implemented over the past decade to improve access to and the timeliness of visa issuing procedures. In particular, the investment in new technology and the expansion of visa issuing outlets through the introduction of agency arrangements have assisted DIEA to deal with the substantial increase in demand for visitor visas and make visa issuing more accessible and less time consuming.

Despite these developments, it appears that some problems continue to be encountered in meeting demand for visitor visas, notably in certain countries which are high volume and emerging sources of visitors to Australia. Those problems include difficulties in accessing information about visas and obtaining visa application forms, coupled with significant demand for visitor visas placing pressure on visa processing at overseas posts. On the basis of the information provided to the Committee, it was difficult to gauge the extent and frequency of the problems with any accuracy. Nevertheless, the evidence was sufficiently compelling to suggest that visa delivery services require further improvement. As noted in Chapter Six, DIEA itself recognised the need for further improvement if future demand for visitor visas is to be met. Of course, it is not only DIEA which needs to direct effort in improving services for prospective visitors to Australia. The tourism industry also needs to ensure better and wider dissemination of information concerning the requirements for visiting Australia.

On the issue of attracting prospective visitors to Australia, the Committee notes that the Australian Government invests significant resources in maintaining an Australian presence overseas. Some of those resources are directed to consular activities, some to immigration related activities and, relevantly, some to promotional activities undertaken by government tourism agencies. Information provided to the Committee suggests that better coordination between the various government agencies operating overseas is necessary to ensure that the effort devoted to attracting tourists to Australia is not diminished by the inability of prospective visitors to access information about visas and to obtain visa application forms.

In particular, DIEA should liaise with the ATC and State and Territory tourism offices to develop improved strategies for providing information about visa requirements and for distributing visa application forms to travel agents and prospective visitors. Those strategies should involve the use of relevant government and private sector agencies to ensure the widest possible distribution of visa information and application forms to prospective visitors to Australia.

DIEA also should explore opportunities for expanding the visa issuing network. While agency arrangements have operated successfully in the Japanese market and are being established in a variety of countries, such arrangements can be of limited effectiveness in countries such as the United States and Canada, where Australian posts are geographically remote for many prospective visitors and demographics make it difficult to cover the potential tourist market. Accordingly, the Committee considers that DIEA should not limit itself to the agency arrangement concept in developing more efficient and expeditious visa delivery processes. Other alternatives, such as using a private contractor to distribute visa information and forms, establishing an international toll free telephone number to answer visa queries and arrange for distribution of visa forms, and maximising the use of technology such as the Internet should be considered actively and expanded upon by DIEA.

As for complaints about the conduct of staff at overseas missions, the Committee was not in a position, nor was it the role of the Committee, to make any findings on individual complaints. The Committee, however, notes the advice from various tourism industry organisations that, over the past few years, DIEA has placed great emphasis on improving the client orientation of its visa delivery services, with a consequential improvement in those services. Clearly, DIEA has recognised that it has a crucial role to play in facilitating visitor entry and thereby in developing an important Australian industry.

It is, of course, important to remember that contact with an Australian overseas mission often gives prospective visitors their first impression of Australia. In this regard, the Committee notes that the limited facilities in waiting areas in certain Australian posts can provide a poor impression to prospective visitors. While this has attracted some criticism from tourism industry representatives, particularly in relation to high volume tourist posts, concerns of this nature are not limited simply to those posts which process large numbers of visitor visas. It must be recognised that any expansion of overseas facilities would entail significant resource expenditure. In the Committee's view, as noted above, the preferable option is to expand the alternatives for visa issue as appropriate.

DIEA also should continue to ensure that all staff involved with delivery of visa services are aware of the importance of creating a positive impression of Australia when dealing with any prospective visitor. This should be reinforced in

the training courses already being conducted for Australia based and locally-engaged staff. Given recent indications that there is likely to be an increase in the ratio of locally-engaged staff employed at overseas missions compared with Australia based staff, the need to ensure appropriate training is of particular importance.

As for complaints concerning the visa process, the best way to deal with any such complaints is to have in place an internal complaints facility. This should include a complaints form, which should be made widely available, including in overseas missions. Such a complaints form can be used by visa applicants or their representatives to lodge formal complaints concerning instances of unprofessional conduct, including allegations of corruption, by staff involved in the provision of visa services at Australian missions overseas, be they Australia based or locally-engaged staff. Any complaints which are lodged should be considered and, where appropriate, acted upon by DIEA's Central Office. This complaints mechanism must not form the basis for statutory review of any visa decision which is made.

The Committee recommends that:

5. **the Department of Immigration and Ethnic Affairs liaise with the Australian Tourist Commission and State and Territory tourism offices in developing strategies for improved access to and dissemination of information about visa requirements, as well as increased availability of visa application forms for prospective visitors to Australia, particularly in high volume and emerging tourist markets. Those strategies should involve the use of relevant government and private sector agencies to ensure the widest possible distribution of visa information and application forms to prospective visitors to Australia;**

6. **as a means for expanding the visa issuing network, the Department of Immigration and Ethnic Affairs actively consider and expand the use of alternatives to the existing agency arrangements including, for example, use of private contractors for visa application form distribution, introduction of an international toll free telephone service for use by prospective visa applicants, and maximum use of technology such as the Internet;**

7. **the Department of Immigration and Ethnic Affairs ensure that in training courses conducted for staff at overseas missions, including Australia based officers and locally-engaged staff, particular emphasis is placed on the importance of creating a positive impression of Australia when dealing with prospective visitors to Australia; and**

8. **the Department of Immigration and Ethnic Affairs establish an internal complaints facility, including a complaints form distributed widely to Australian overseas missions, for use by visa applicants or their representatives to report instances of unprofessional conduct by staff involved in the delivery of visa services at Australia's overseas missions. Any complaints made through this facility should be considered and, where appropriate, acted upon by the Department's Central Office, but must not form the basis for statutory review of a visa decision.** (paragraph 7.40)

Visa assessment

Allegations of discriminatory and arbitrary practices

The Committee was concerned about allegations made during the inquiry of decision makers acting in an arbitrary and discriminatory manner when assessing certain visitor visa applicants. DIEA must ensure that discrimination does not arise within the visa issuing process.

Those making allegations of discrimination did not provide any specific evidence beyond anecdote to support their claims. Essentially it was asserted that DIEA officers proceed subjectively by singling out particular visa applicants for close investigation because of the applicant's personal circumstances or demeanour. Those making the allegations stated to the Committee that consideration of such factors amounted to arbitrary decision making and should be irrelevant to any decision concerning a visitor visa.

As indicated earlier in the report, visitor visa applicants are required to show that they intend only to visit and have sufficient means to support themselves during their stay. In evaluating whether an applicant satisfies these criteria, immigration officers are required to consider the applicant's personal circumstances in his or her home country, as well as the applicant's history in abiding by entry conditions during any previous visit to Australia. In the Committee's view, it is appropriate for immigration officers to take such matters into account when investigating or deciding on visitor visa applications. Given that a smaller percentage of visitor visa applicants now are being interviewed personally, it also is essential that immigration and customs officers still have the opportunity to evaluate a visa applicant's credibility at the point of entry to Australia.

It is important to recognise that it is an established, well-founded, worldwide immigration practice to take a visa applicant's personal circumstances and credibility into consideration when assessing his or her claims for entry. It also should be noted that evaluations based on such indicators are not confined simply to immigration decision making. In Australia's general legal and trial system, for example, an individual's appearance and demeanour can be relevant indicators of his or her credibility.

A person's demeanour and attitude can be revealing indicators of his or her financial means and travel intentions. As such, they can be relevant to a determination on whether the prospective visitor has satisfied the criteria for entry to Australia.

As for the complaints concerning Form 77, the Committee notes that this form now has been abolished. Further, Form 48R currently in use is less prescriptive than Form 77 in regard to the type of evidence which friends or relatives should provide in support of visitor visa applications. On this point, the Committee endorses the notion that in certain markets which show a high risk of visitor overstay, a more comprehensive application form be used so as to enable details to be obtained about the applicant's circumstances and those of the Australian family to be visited by the applicant. The current Form 48R appears to be appropriate for this purpose.

Risk factor

The Committee is of the view that it is essential to guard against abuses of the visitor program. To that end, the Committee supports the principle that where objective data demonstrates that certain classes of entrant present a higher overstay risk, such evidence should be used by DIEA in its decision making. In the Committee's view, it is appropriate that visitor applicants who exhibit high risk characteristics be requested, where appropriate, to produce cogent evidence to demonstrate that their intentions in visiting Australia are genuine.

In this context, the Committee supports the principle of the risk factor profile. The profile is a management device constructed from objective data which simply allows decision makers to highlight those visitor applicants who must show appropriate evidence of their intention to return home. The risk factor profile does not mandate refusal of the visa. While the visitor visa refusal rates from posts in certain risk factor countries are high, large numbers of visitor applicants at such posts are being approved.

In the Committee's view, the IRT's high overturn rate of close family visitor visa decisions, as noted by IARC and indicated from the Committee's own examination, is not evidence of unfair offshore practices. Rather, it is an indicator of the decision maker's flexibility to grant a visa in risk factor cases when the applicant can demonstrate that there is very little likelihood that he or she will overstay. It is relevant to note that there are a relatively small number of appeals against such visa refusals, even though all close family visa applicants who are refused visas are informed of their review rights. It is also important to remember that the IRT has particular advantages compared to the assessing officer overseas. The IRT is able to hear from the Australian family of the visitor visa applicant. This enables the IRT to have before it additional evidence concerning the reasons for the visit and the applicant's intentions or incentives for returning home.

The availability of a review mechanism in close family visitor cases demonstrates Parliament's concern to offer every opportunity for the consideration of issues relevant to decisions affecting visits by relatives of Australian citizens and permanent residents. It always has been Parliament's intention—and remains a key principle of the existing Migration Regulations—that genuine visits from close family members should be facilitated and encouraged.

Notwithstanding the Committee's general support for the risk factor criterion, it is evident that there are problems with aspects of the risk factor, indicating the need for a further and fuller assessment of its operation. Currently, the risk factor profile targets particular immigration risks, namely those visitor visa applicants who have applied for residence in Australia in the five years preceding their visa application as well as those applicants who share characteristics with known visitor overstayers in Australia. The profile does not take into account the characteristics of visitors who apply for residence from within Australia shortly after their arrival. Such visitors can represent a separate immigration risk, in that they appear to use their visitor visas in order to jump the offshore immigration queue.

In light of the limitations of the existing risk factor profile, the parliamentary committee which will undertake the review of the revised visitor visa arrangements, as proposed in recommendation 2, should be requested to conduct a more detailed assessment of the risk factor's operation. In order for a proper assessment to be made at that time, DIEA needs to collect a range of objective data relevant to such an assessment. The information should include data on visitor overstay rates and on applications for extensions of stay and change of status made by visitors from within Australia, particularly applications for change of status on family, spouse, interdependent and refugee grounds. Such data should include information on the timing of onshore visa applications so that an assessment can be made as to whether it is necessary to modify the risk factor profile to include within it visitors who have sought permanent residence in Australia within two months of their arrival.

In the meantime, certain modifications to the current risk factor are required to ensure its effective operation. As noted in Chapter Four, the text of criterion 4011 (which sets down the terms of the risk factor profile) is ambiguous. The regulation presently states that applicants are within the risk factor profile if an applicant meets one or more of the characteristics of the profiled classes. In actual fact, applicants come within the profile only if they meet all three characteristics of nationality, age and gender presently listed in each of the risk profiles. The Committee considers that the regulation should be amended so as to remove this ambiguity.

The Committee also is concerned that the risk factor profile is perceived as being discriminatory. In the Committee's view, one of the advantages of the risk factor is that it is based on transparent and objective data concerning the characteristics of overstayers. To alleviate the perceptions of discrimination, DIEA should ensure that in the text of its visa refusal decisions it is made clear

that it is objective data which guides decision makers. In addition, more publicity should be given to the use of this criterion so that applicants are alert to the fact that they may fall within the risk factor profile and therefore must satisfy decision makers of their clear intention to abide by the visitor visa conditions. To this end, the Committee considers that DIEA should produce and make available advice pamphlets informing applicants of the type of information which decision makers would find helpful in evaluating the claims of visitor visa applicants coming within the risk factor profile.

As for the information on which the risk factor profiles are based, the Committee notes that prior to 1 September 1994 it was easy to obtain a relatively accurate profile of overstayers in Australia from DIEA's records. By contrast, it is more difficult to ascertain an accurate calculation of overstayers from the figures available to the Committee subsequent to 1 September 1994. Those figures (see Appendix Five) simply show the number of non-citizens who have overstayed their visas and who have not presented to or been apprehended by DIEA. They do not record the number of unlawful non-citizens who have been issued with a bridging visa. It follows, therefore, that any risk factor profile compiled from post-September 1994 figures would not provide an accurate representation of the total number of visitors who arrived in Australia and overstayed their visas.

In the Committee's view, if risk factor profiles are to be used as part of the visitor visa criteria, DIEA must record as overstayers not only those people who do not have a visa and are unlawful non-citizens, but also those people who had overstayed their visas at the time they were issued with bridging visas. On this point, the Committee notes that in evidence at a Senate Legal and Constitutional Legislation Committee hearing on 20 November 1995, DIEA indicated that its intention is to take account of individuals issued with bridging visas when calculating overstay rates.

The Committee also considers that the risk factor profile should be updated annually to ensure its currency and, most importantly, to ensure that it is targeted appropriately at those who are risk cases. In addition, to enable wider public access to the risk factor profile, it should be gazetted.

Further, the Committee is sympathetic to the concern expressed by VIARC that risk factor applicants who are granted long stay visitor visas are unable to stay for periods in excess of six months. Such restrictions may be appropriate for some applicants but not for all. For this reason, the Committee agrees that the existing regulation relating to the six month limit on period of stay for visitors who come within the risk factor be amended so that such visitors are able to obtain long stay visitor visas for periods of more than six months if the decision maker considers that a longer period of stay is appropriate.

The Committee recommends that:

9. as part of the review of the revised visitor visa arrangements proposed in recommendation 2, the parliamentary committee conducting the review undertake a detailed assessment of the risk factor profile to determine whether the profile is working to minimise the immigration risks of visitors overstaying and applying for residence from within Australia;

10. to enable a proper assessment of the risk factor profile, as proposed in recommendation 9, the Department of Immigration and Ethnic Affairs collect a range of objective data relevant to such an assessment, including data on visitor overstay rates as well as data on applications for extensions of stay and change of status made by visitors in Australia, particularly applications for change of status on family, spouse, interdependent and refugee grounds. Such data should include information on the timing of onshore visa applications;

11. pending the outcome of the proposed review of the risk factor, as detailed in recommendation 9, the risk factor profile in its present format be identified accurately and defined precisely to clarify that applicants come within the risk factor profile if they exhibit all of the same characteristics as any one of the profiled classes;

12. the Department of Immigration and Ethnic Affairs ensure that in the text of its decisions concerning visitor visa refusals it is made clear that the decision is based on objective data relevant to the merits of the individual case and is not a subjective assessment;

13. the long stay visitor visa regulation, which limits the period of stay for visitors who come within the risk factor to less than six months, be amended so that such visitors can obtain long stay visitor visas valid for a period of stay of more than six months if the decision maker considers that a longer period of stay is appropriate;

14. subject to the outcome of the proposed review of the risk factor, as outlined in recommendation 9, the overstayer statistics on which the risk factor profiles are based include not only those persons who have overstayed their visas and have become unlawful non-citizens but also those persons who have overstayed their visas and have been issued with bridging visas;

15. the risk factor profile be updated annually;

16. the risk factor profile be gazetted; and

17. the Department of Immigration and Ethnic Affairs produce and make publicly available pamphlets which provide information about the operation of the risk factor profile. Those pamphlets should advise visitor visa applicants within the risk factor profile of the need to provide appropriate evidence of their intention to return home. The pamphlets also should provide guidance on the type of information which would assist decision makers in determining whether the applicant is likely to return home. (paragraph 7.81)

Visitor screening

When the Committee commenced this inquiry, it was under the impression that the visa system provides a comprehensive screen against the entry to Australia of persons who may pose a risk to the Australian community. However, information received during the inquiry indicated to the Committee that the screen is not as comprehensive as it could be and should be.

DIEA's Movements Alert List (previously Migrant Alert List), against which all visa applicants are screened, has been focused primarily on persons who have breached immigration laws rather than on persons who are a criminal or security concern. As such, it has been a somewhat limited screening tool. This was confirmed to the Committee by the National Crime Authority when it noted that law enforcement agencies have not been major users of that alert system.

Given the shift to simplified visa application processes, whereby the majority of visa applicants no longer need to provide detailed information on bona fides or attend for an interview, DIEA's alert system has become of crucial significance in detecting and preventing the entry to Australia of undesirable and suspect persons. It will be of even more importance when the electronic travel authority is operational. Unless the alert system has a broader focus and is made more comprehensive, the processes for screening entrants to Australia could be seriously compromised.

In this regard, the Committee supports measures to enhance the Movements Alert List, including those announced by DIEA towards the end of the inquiry. These measures involve increasing the number of entries, expanding its focus beyond mainly immigration concerns to include wider criminal and security concerns, incorporating local post warnings and improving name matching techniques. The Committee stresses that the redevelopment of the Movements Alert List must be a priority for DIEA. Particular emphasis should be directed to ensuring that the Movements Alert List records as comprehensively as possible those non-citizens who may be a criminal, security or public order concern if they were to enter Australia. This would require not only a listing of known criminals but also those associated with criminal organisations.

The Committee recognises that if the alert system is to be an effective screening tool, then responsibility for its redevelopment and improved usage does not rest with DIEA alone. In this regard, DIEA, as administrators of the Movements

Alert List, should ensure that appropriate consultation is undertaken and effective working partnerships are developed with all agencies which could and should be providers and users of the alert information. This includes, for example, Customs, relevant law enforcement agencies and DFAT. Each of these agencies has a responsibility to coordinate with and assist the others to improve the quality and quantity of information placed on the alert system and to ensure that the system is used to best effect.

As part of the enhancement process, improved procedures and guidelines need to be developed for accessing, entering and updating information on the Movements Alert List. From the evidence available to the Committee, it appears that the existing procedures for listing criminal and security related alerts are somewhat ad hoc. If the quality of the alert system is to be maintained, then the emphasis cannot simply be on a one-off enhancement of the system. Appropriate procedures and guidelines must be in place to ensure an ongoing commitment to the system's effective operation. In this respect, processes should be introduced to ensure that data relevant to visa issuance which is available to other government departments and agencies is provided to DIEA. Further, the Commonwealth Government should seek the cooperation of State and Territory Governments in this matter.

As a further measure towards improving the alert system, DIEA and Customs must work towards the integration of the Movements Alert List and the Passenger Automated Selection System. In the Committee's view, integration of the two systems is necessary if the agencies which require alert information are to have full access to all such information.

As for the availability of information, the Committee recognises that there can be difficulties in accessing intelligence held by overseas law enforcement agencies, for example because of privacy laws in their countries. In this regard, the Australian Government must exert pressure to persuade governments of relevant overseas countries to remove any existing obstacles to the effective exchange of criminal intelligence information.

The Committee recommends that:

18. as a priority, the Movements Alert List, against which all visa applicants are screened, be upgraded by the Department of Immigration and Ethnic Affairs, with a particular emphasis on improving the listing of alert information concerning non-citizens who may be a criminal and security concern to Australia;

19. in upgrading the Movements Alert List, the Department of Immigration and Ethnic Affairs ensure that appropriate consultations are undertaken and effective working partnerships are developed with all agencies which could be and should be providers and users of the alert information including, for example, the Australian Customs Service, the Department of Foreign Affairs and Trade and all relevant law enforcement agencies;

20. enhanced procedures and guidelines be developed for accessing, entering and updating alert information on the Movements Alert List to ensure an ongoing commitment to the effective operation of the alert system;

21. the Department of Immigration and Ethnic Affairs and the Australian Customs Service work towards the integration of the Movements Alert List and the Passenger Automated Selection System to ensure that all relevant alert information is available to agencies requiring access to such information;

22. processes be introduced to ensure that data relevant to visa issuance which is available to other government departments and agencies is provided to the Department of Immigration and Ethnic Affairs. In this regard, the Commonwealth should seek the cooperation of State and Territory Governments; and

23. the Australian Government exert pressure to persuade governments of relevant overseas countries to remove any existing obstacles to the effective exchange of criminal intelligence information. (paragraph 7.108)

New technology

The introduction of new technology has been integral to the development of a more efficient and expeditious visitor visa system. As technology develops, the possibilities for improving visitor entry processes also will increase. It is evident that there are various options which could be considered in facilitating passenger entry, including the use of smart card and biometric technology. In the Committee's view, these options should be explored to ensure that the visitor entry processes are as efficient and expeditious as possible. In examining those options, appropriate consideration should be given to issues such as cost, implications for airport infrastructure and privacy matters.

The benefits of new technology can be gauged from the efficiencies which have resulted through the introduction of machine-readable passports and visas. Regrettably, not all countries have embraced those benefits. In this regard, the Committee is of the view that countries which have not introduced machine-readable passports should be encouraged to do so in order to facilitate passenger processing.

The Committee recommends that:

24. the Department of Immigration and Ethnic Affairs, in consultation with other relevant Commonwealth agencies, such as the Australian Customs Service, the Federal Airports Corporation and the Privacy Commissioner, explore the option of introducing new technology such as 'smart' cards and biometrics to facilitate Australia's visitor entry processes; and

25. the Australian Government, both at the bilateral level and through appropriate international forums, continue to encourage the early adoption of machine-readable passports by all countries. (paragraph 7.117)

Visitors and health

During the inquiry, some attention was directed to the health criteria relating to visitor entry. While one witness raised particular concerns about visitors entering Australia with tuberculosis, the Department of Human Services and Health indicated that this issue is of primary significance in relation to persons who enter Australia for longer or permanent periods of stay.

The Committee notes that a number of issues relevant to the health criteria were raised by its predecessor, the Joint Standing Committee on Migration Regulations, in its 1992 report entitled *Conditional Migrant Entry: The Health Rules*. That report included recommendations concerning the management of information about persons with tuberculosis and other infectious diseases. The Government response to those recommendations was tabled in the Parliament on 29 November 1995.

In its response, the Government accepted the previous Committee's recommendation for an effective and timely reporting system whereby the results of medical examinations for infectious diseases such as tuberculosis and hepatitis B are passed to State and Territory health authorities by DIEA, to enable appropriate public health standards to be implemented by those authorities. The Government advised that a system already is in place whereby the medical documents of applicants who may require monitoring of their tuberculosis or hepatitis B are passed to the health authority in the State or Territory of the applicant's intended residence in Australia. The Government noted that a review of the health requirement and associated procedures to date has resulted in amendment of the Migration Regulations to require such applicants to provide a written undertaking to put themselves under the supervision of those authorities where this has been requested by the Commonwealth Medical Officer. The Government also indicated that options for strengthening post-arrival compliance with these undertakings are being considered by the Department of Human Services and Health and DIEA. In the course of their deliberations, those departments should take account of the

evidence on the health requirement presented to this Committee during the inquiry into Australia's visa system for visitors.

Given that the focus of this inquiry meant that limited evidence was received on health issues, the Committee was constrained from making detailed findings and recommendations on these matters. The Committee regards the health issues associated with temporary entry to be extremely important. Dr Streeton's evidence concerning visitors and overseas students who suffer from tuberculosis raises serious concerns.[1] The issues should be investigated further as part of a focused inquiry on these matters which should be undertaken in the next Parliament either by the successor to the Joint Standing Committee on Migration or a parliamentary committee dealing with community services and health issues.

The Committee recommends that:

26. in the next Parliament, the successor to the Joint Standing Committee on Migration or a parliamentary committee dealing with community services and health issues be requested to undertake an inquiry into the health issues associated with temporary entry to Australia. (paragraph 7.130)

Visitor visa terms and conditions

In relation to suggestions that all visitor visas should provide for multiple journeys to Australia, the Committee notes DIEA's evidence that currently, approximately 95 per cent of visitor visas issued are multiple re-entry visas. The Committee welcomes this practice and considers that it should be maintained.

However, in view of the number of witnesses who advocated the widespread use of multiple re-entry visas during the course of the inquiry, it appears that there is some discrepancy between perception and practice. The Committee therefore suggests that DIEA should publicise more actively the availability of this facility, both directly to visa applicants and indirectly through education of travel agents and other tourism industry members.

DIEA also should consider mechanisms to address the difficulties which can arise for persons with short term passports, for whom a multiple re-entry visa has limited value. Such mechanisms could include, for example, arrangements for transferring a multiple re-entry visa from a visitor's old passport to a new passport or the issuing of a visitor visa card, similar to the card recently proposed for business temporary entrants.

---

1 Immediately prior to the Committee finalising this report, the Government announced certain measures relating to testing and monitoring of tuberculosis. The Committee did not have an opportunity to take evidence on these measures and, therefore, the announcement was not taken into account in the Committee's deliberations.

As for the issue of the fees which apply to long stay visitor visas, little evidence was received concerning the degree to which the current fee structure may impact adversely on visitors, or on the implications of removing fees. At this point in time, the Committee is not disposed to recommend changes to the existing fee arrangements.

The Committee recommends that:

27. the Department of Immigration and Ethnic Affairs actively publicise the availability of the multiple re-entry visa, both directly to visa applicants and indirectly through education of travel agents and other tourism industry members; and

28. the Department of Immigration and Ethnic Affairs consider mechanisms to ensure that visitors whose countries issue short term passports are able to access the benefits of multiple re-entry visas, either by introducing arrangements for transfer of a multiple re-entry visa from an old passport to a new one or by introducing a visitor visa card similar to the card proposed for temporary business entrants. (paragraph 7.141)

Passenger clearance

As the passenger card currently is of crucial significance in the entry clearance process to Australia, in that the information provided by visitors on their passenger cards can be the basis for cancellation of their visas, it is vital that passengers have a clear understanding of the importance of the card and have the capacity to complete it correctly. As passenger cards are printed only in English, their completion can be problematic for persons who do not have an adequate command of the English language.

The Committee notes DIEA's advice that Qantas has given some consideration to producing a template in other languages which would fit over the passenger card and allow non-English speaking visitors to understand the card. In the Committee's view, this should be DIEA's responsibility. DIEA should produce such templates in the languages of all major nationality groups travelling to Australia and should provide these templates to all airlines which have flights to Australia. The availability of such templates should be publicised actively to passengers. In addition, passenger cards in the languages of major nationality groups travelling to Australia, or translations of the questions and instructions on the card, should be available at arrival and/or departure points.

The Committee recommends that:

29. in order to assist travellers to complete passenger cards accurately, the Department of Immigration and Ethnic Affairs produce and distribute to airlines which have flights to Australia templates which can be placed over passenger cards and which provide a translation of the card in the languages of major nationality groups travelling to Australia. The availability of such templates should be publicised actively to passengers; and

30. passenger cards in the languages of major nationality groups travelling to Australia, or translations of the questions and instructions on the card, be made available at arrival and/or departure points. (paragraph 7.150)

Transit visas

The Committee considers that the current transit visa requirement is appropriate for travellers who intend to 'stopover' in Australia and spend their transit period away from the precincts of an international airport. The transit visa provides a means for recording the entry of such persons to Australia and ensuring that they do not remain for more than 72 hours.

In relation to transit passengers who remain in an airport transit lounge, the Committee acknowledges that DIEA has streamlined arrangements for the citizens of 43 countries as well as for holders of a passport issued by the relevant Taiwanese authorities. At the same time, however, the Committee is of the view that DIEA should give active consideration to eliminating the transit visa requirement for all passengers who will remain in an airport transit lounge for eight hours or less.

Further, given that cruise ship tourism was described by various witnesses as an area of potential growth for Australian tourism, the Committee suggests that as a matter of priority, DIEA continue to pursue with cruise ship operators options for further streamlining transit visa requirements for cruise ship passengers wishing to visit an Australian port for 72 hours or less.

The Committee recommends that:

31. as a priority, the Department of Immigration and Ethnic Affairs give consideration to extending the number of countries whose nationals are not required to obtain a transit visa if they remain in Australia in an airport transit lounge for eight hours or less; and

32. the Department of Immigration and Ethnic Affairs pursue with cruise ship operators options for further streamlining transit visa requirements for cruise ship passengers wishing to visit an Australian port for 72 hours or less. (paragraph 7.165)

Working holiday makers

The Committee recognises that the working holiday maker scheme brings various economic, social and cultural benefits to Australia. Many working holiday makers spend significant amounts of money while in Australia. Evidence was received to suggest that some working holiday makers have helped to meet personnel shortfalls in particular sectors of the Australian economy, including tourism. The scheme also provides an opportunity for cultural exchange and enrichment on the part of both Australians and working holiday makers themselves. Working holiday makers also can benefit Australia even after they have returned to their home country, by encouraging others to holiday in Australia.

While the working holiday maker arrangements were not a major focus of this inquiry, some suggestions were made to the Committee for extending those arrangements so as to increase the benefits which can accrue to the Australian economy. The Committee is sympathetic to the proposals made in this regard.

The Committee, however, is concerned by claims that some working holiday makers breach their conditions of stay by working with the same employer for more than three months and, in some cases, by working continuously during their period of stay in Australia. The Committee also was concerned about allegations that some employers exploit the working holiday maker arrangements either by using the scheme as a form of contract labour or by paying under-award wages to working holiday makers. When this occurs, there can be adverse consequences for the local labour market. Australian residents can find, for example, that this use of the working holiday maker arrangements effectively restricts their access to certain occupational sectors, such as the tourism industry.

Given the potential labour market implications of the working holiday maker scheme, and in light of alleged breaches of the scheme, any significant extension of the scheme must ensure that the interests of Australians are protected. Appropriate consultations on extending the scheme would need to be held with relevant organisations, including, for example, unions, employer groups, industrial relations agencies and tourism industry representatives. In the Committee's view, a comprehensive review of the working holiday maker arrangements should be undertaken in the next Parliament.

A particular matter which should be considered as part of the proposed review is the current requirement which provides that certain nationals can apply for working holiday maker visas only in their country of citizenship. Some Committee members consider that this requirement is overly restrictive and is limiting the benefits of the scheme. The proposed review should determine whether this restriction is necessary or whether the arrangements should be modified to allow all prospective working holiday makers to lodge their applications in any country.

Pending the outcome of the proposed review, the Committee supports certain interim measures to improve the working holiday maker arrangements. The Committee agrees with the ATC's suggestion that working holiday maker visas be valid for 15 instead of 12 months, to allow for a total of nine months employment and six months travel. The Committee also considers that the Australian Government should enter into negotiations with other governments with the aim of establishing additional bilateral agreements which would allow for easier and improved access to working holiday maker arrangements for nationals of other countries visiting Australia and Australian citizens travelling abroad.

As for the claims that some working holiday makers breach the condition that they must not work for the same employer for more than three months, the Committee notes that DIEA should be notified of all such breaches in order to determine whether cancellation of a working holiday maker visa should result. Breaches of employment awards should be referred to the appropriate industrial relations agencies for further action.

The Committee recommends that:

33. in the next Parliament, a comprehensive review of the working holiday maker arrangements be undertaken, focusing particularly on whether existing restrictions on nationals applying for working holiday maker visas outside their country of citizenship should continue;

34. the working holiday maker arrangements be amended to allow for periods of stay of up to 15 months, involving up to nine months employment and six months holiday, but retaining the condition that the employment not be for more than three months with the one employer; and

35. the Australian Government enter into negotiations with other governments to increase the number of bilateral agreements relating to the working holiday maker arrangements, in order that nationals of other countries visiting Australia and Australian citizens travelling abroad can have easier and improved access to such arrangements. (paragraph 7.194)

Christmas Island

The special visa arrangements applying to visitors from Indonesia who travel to the Christmas Island casino recognise the unique position of Christmas Island and the importance of the casino to the island's economy. Such a concession is not available elsewhere in Australia. At this point in time, the Committee does not favour any further easing of visa requirements for Christmas Island. The Committee is of the view that the existing concession goes far enough in recognising the special and particular needs of Christmas Island.

Hells Angels

The submission from the Hells Angels Motorcycle Club was aimed at overturning what the Club considered to be an effective ban on Hells Angels visiting Australia if they declare themselves to be Club members. The issue in dispute concerns declared Hells Angels members. Visitor visa applicants are not asked about their club affiliations, Hells Angels or otherwise, as part of the visitor visa application process. The evidence from DIEA was that the individual circumstances of known Hells Angels members were considered when deciding on their visitor visa applications. According to DIEA, there was no ban on Hells Angels members entering Australia.

The Committee was in no position—nor was it the role of the Committee—to reconsider individual visa applications. The Hells Angels case was considered in detail by the Federal Court (see paragraph 4.80). The Committee notes that the Federal Court found that the affiliations and associations of a person are relevant to an assessment of the person's good character.

The existing legislative provisions make it clear that the Minister has the authority to refuse visitor and other visas on character and conduct grounds. In the Committee's view, it is appropriate that the Minister has this power and that it be exercised by the Minister when the Minister sees fit. There is no need for any amendments to the power of the Minister to refuse visas on character grounds.

Section One

INTRODUCTION

In this first section of the report, the Committee outlines the background to its detailed examination of Australia's visa system for visitors.

In Chapter One, the Committee details the context in which the inquiry was established and the process followed in conducting the inquiry.

In Chapter Two, the Committee examines the use of visas in an international context, with particular consideration given to the visitor visa systems of certain overseas countries. This is in accordance with the suggestion made in a variety of submissions that, in coming to its conclusions, the Committee should take account of visitor visa developments in other countries.

In this section of the report, the Committee sets the scene for its consideration of Australia's visa system for visitors and the future of that system.

Chapter One

THE INQUIRY

Establishment of the inquiry

1.1 On 8 June 1994, the Joint Standing Committee on Migration (the Committee) adopted terms of reference for an inquiry into Australia's visa system for visitors. The terms of reference for the inquiry are provided at page xi.

1.2 The inquiry was adopted in accordance with the Committee's resolution of appointment, which enables the Committee to inquire into and report upon:

(a) regulations made or proposed to be made under the *Migration Act 1958*;

(b) all proposed changes to the *Migration Act 1958* and any related Acts; and

(c) such other matters relating to migration as may be referred to it by the Minister for Immigration and Ethnic Affairs.

1.3 The main focus of the inquiry was to evaluate the efficiency and effectiveness of Australia's visa system for visitors, to consider its impact on Australia's bilateral relations, to consider possible alternatives to the existing system, and to assess the potential impact any such alternatives may have on the Australian community.

1.4 The *Migration Act 1958* currently provides that all persons who are not Australian citizens must hold a valid visa in order to travel to, enter and stay in Australia. The term 'universal visa system' is used to signify that the requirement to hold a visa applies to all non-citizens regardless of nationality. Certain persons, such as the Royal Family, foreign dignitaries, certain foreign defence force personnel and crew of non-military aircraft and ships, are not required to apply for a visa but rather are deemed to have been granted a special purpose visa. New Zealand citizens are not required to apply for or hold a visa before travelling to Australia and, instead, are granted a visa on arrival, provided relevant health and character requirements are met.

1.5 Visitor visas are a distinct component of Australia's universal visa system. They indicate that non-citizens have been granted permission to travel to, enter and stay temporarily in Australia for the purposes of tourism, recreation, visiting family or undertaking medical treatment.[1]

1.6 A number of factors led to the establishment of the inquiry. First, the Committee was aware of tourism industry claims that Australia's visa system for visitors was impeding growth in tourism to Australia and, therefore, was limiting the future development of a major Australian industry. While those claims were not new, the growing significance of Australia's tourism industry as a source of export income, and the increasing competition among world travel destinations for the tourist dollar, signalled to the Committee the importance of investigating the industry's concerns.

1.7 Australia's successful bid to stage the year 2000 Olympic Games in Sydney gave added impetus for the inquiry. With significant growth in visitors expected in Australia in the lead up to and in connection with the Olympic Games, the Committee considered that it was important to assess whether the existing visa system has the capacity to cope with increased demand up to and beyond the year 2000.

1.8 The Committee also was aware of concerns about the impact of the visitor visa system on Australia's bilateral relations, particularly given developments in other countries. Some of those developments have included:

- New Zealand's decision to change its visitor visa system to remove the requirement for visitors from selected countries to obtain a visa prior to travel to New Zealand; and
- continuing efforts by European Union countries to establish a common border within Europe and the possibility that this could lead to the establishment of visa requirements for non-European visitors whose countries impose visa requirements on European visitors.

1.9 Alongside these developments, the Committee was aware of occasional approaches by Australia's major trading partners, particularly the United States of America and Japan, seeking the removal of visa requirements for visitors on a reciprocal basis.

1.10 In light of these concerns and developments, the Committee considered that it was timely to conduct an inquiry into Australia's visa system for visitors to determine whether the existing system serves Australia's best interests.

---

1 Prior to 1 November 1995, the visitor visa arrangements also included business visitor visas. From that date, short-term business entrants have been grouped as a separate category of temporary entrants and a separate temporary business visa has been introduced (see Chapter Four).

Conduct of the inquiry

1.11 A media release announcing the inquiry was issued on 21 June 1994. The announcement generated considerable media interest, resulting in widespread reporting of the inquiry.

1.12 The inquiry was advertised nationally in capital city newspapers on 22 June 1994 and in the magazine *Travel Week* on 6 July 1994. In addition, the Committee wrote to a range of individuals and organisations seeking submissions, including tourism industry and community representatives, State Governments and Commonwealth Government agencies.

1.13 In December 1994, the Committee published an issues paper on the inquiry and sought written comments on the paper from interested individuals and organisations.

1.14 There were 148 submissions to the inquiry, which are listed at Appendix One. The submissions were reproduced in six volumes and included submissions which addressed the terms of reference, commented on the issues paper and provided supplementary information requested by the Committee at public hearings. The Committee also received 17 exhibits, which are listed at Appendix Two.

1.15 Evidence was taken at public hearings held in Sydney, Melbourne, Brisbane, Perth, Adelaide and Canberra from February to June 1995. Some evidence was taken in camera. A list of witnesses who gave evidence at the public hearings is provided at Appendix Three. At the conclusion of the hearings, supplementary information was obtained from the Department of Immigration and Ethnic Affairs (DIEA) and the Department of Foreign Affairs and Trade (DFAT) at a briefing conducted in August 1995.

1.16 Copies of the published transcripts of evidence and the volumes of submissions are available from the Committee secretariat and for perusal at the National Library of Australia. References to evidence in the text of this report relate to page numbers in the published transcripts and the volumes of submissions. Where the letter 'S' precedes a page number, this signifies evidence from the volumes of submissions.

1.17 In addition to the above evidence, the Committee commissioned a research paper on the visa systems of overseas countries. The research paper was prepared by the Committee's parliamentary intern, Mr Norman Beecroft, who participated in the student intern program at the Australian National University. The research paper forms part of the evidence tabled in the Parliament in conjunction with the report. The Committee is grateful to Mr Beecroft for his research work and the paper he prepared. The Committee also appreciates the assistance provided to Mr Beecroft by DFAT and the representatives of various overseas missions.

1.18 The Committee also gained first hand experience of the operation of Australia's visa system for visitors. In February 1995, the Committee conducted an inspection at Sydney (Kingsford Smith) Airport. Representatives of DIEA, the Australian Customs Service (Customs) and Qantas Airways Limited (Qantas) briefed the Committee and demonstrated the passenger processing facilities at the airport. In March 1995, DIEA also demonstrated visa processing to the Committee. The Committee is grateful to all those involved in arranging and conducting the inspection and demonstrations.

1.19 During the inquiry, continual references were made to New Zealand's experience in removing for nationals of selected countries the requirement to obtain a visa prior to travel. In a large number of submissions, it was suggested that the Committee should take account of that experience in formulating its conclusions and recommendations. Some initial information in this regard was provided by the New Zealand High Commissioner to Australia, His Excellency Mr Graham Fortune. The Committee also sought to travel to New Zealand for the purposes of holding discussions with New Zealand authorities regarding the changes to their visa system and the impact of those changes. While the Committee was unable to secure funding for travel to New Zealand, it was fortunate to obtain a briefing on New Zealand's visitor visa system from Ms Rosemary Banks, New Zealand's Deputy High Commissioner to Australia. The Committee is indebted to Ms Banks as well as to the High Commissioner and other New Zealand officials for the information they were able to provide to the Committee.

Inquiry definitions

1.20 Various terms were used during the inquiry which warrant some explanation.

1.21 The term 'visa' essentially means an endorsement giving permission for a non-citizen to enter and stay in a country. Certain countries require non-citizens to obtain visas prior to travelling to the country. Such visas can be evidence that the non-citizen is cleared for entry or is permitted to enter. Other countries do not require non-citizens to obtain clearance to travel to the country and, instead, issue visas at the border. The term 'visa' is used interchangeably to indicate permission to travel and/or permission to enter and stay. In certain instances, the endorsement granted to a non-citizen at the border can be referred to as an entry permit. Australia currently uses the term 'visa' to mean permission to travel to, enter and stay. Australian practice in this regard is discussed in Chapter Four. The practice of various overseas countries is discussed in Chapter Two.

1.22 As noted at paragraph 1.4, the term 'universal visa system' is used to signify that all non-citizens, regardless of nationality, require a visa in order to enter and stay in Australia.

1.23 During the inquiry, the term 'visa free' was used by various witnesses when proposing alternatives to the universal visa system. Some used the term 'visa free' to mean that visitors would not need to obtain a visa either prior to travel to Australia or in order to enter Australia. Under such a system, non-citizens could expect to enter Australia simply by showing their passports or other acceptable identity documents. Others used the term 'visa free' to mean that non-citizens no longer would need to obtain a visa prior to travel to Australia but would continue to require a visa to enter Australia. Such a visa would be granted on arrival after the passenger has presented an appropriate identity document, such as a passport, and has satisfied relevant visitor visa character and health requirements.

1.24 The term 'selective visa free' means that either of the visa free arrangements described above would apply only to nationals of certain selected countries.

1.25 The term 'visa waiver' also was raised during the inquiry. That term is used most commonly in the context of the visa waiver pilot program for visitors operating in the United States of America. Under that program, which is discussed in detail in Chapter Two, nationals of selected countries do not need to apply for a visa prior to travelling to the United States. Subject to certain requirements, including that they waive all rights to review or appeal if they are refused admission to or are deported from the United States, such non-citizens are granted entry on showing identity documents and evidence of their intention to depart from the United States. Some witnesses suggested that a similar program should be adopted in Australia.

1.26 The proposals for the introduction of 'visa free', 'selective visa free' or 'visa waiver' arrangements are considered in Chapter Six.

Report structure

1.27 The report is divided into three sections. Section One details the background to the inquiry. Along with this present chapter on the inquiry process, Section One also contains a chapter which outlines the use of visitor visas in an international context, including the visitor visa systems of selected countries (Chapter Two).

1.28 Section Two presents an overview of Australia's visa system for visitors and examines the following:

- the profile of visitors to Australia (Chapter Three);
- the regulatory framework governing the operation of Australia's visa system for visitors (Chapter Four); and
- the role of visitor visas in Australia's entry system (Chapter Five).

1.29 **Section Three is concerned with the future of Australia's visa system for visitors and details the following:**

- **options for the future (Chapter Six); and**
- **proposals for enhancing the visitor entry system (Chapter Seven).**

Chapter Two

VISITOR VISAS— THE INTERNATIONAL CONTEXT

Introduction

2.1 Under international law, each nation state has the right to determine whether persons who are not citizens of that state can enter and stay in its territory. As noted in an analysis of this sovereignty principle in *Oppenheim's International Law*:

> Apart from special treaties of commerce, friendship, and the like, no State can claim the right for its subjects to enter into, and reside on, the territory of a foreign State. The reception of aliens is a matter of discretion, and every State is by reason of its territorial supremacy competent to exclude aliens from the whole, or any part of, its territory.[1]

2.2 Alongside its right to exclude and remove non-citizens, a nation state also can set down conditions which non-citizens must satisfy in order to gain entry to or stay in its territory. As indicated in the nineteenth century American case which gave modern definition to the immigration sovereignty principle:

> It is an accepted maxim of international law, that every sovereign nation has the power, as inherent in sovereignty, and essential to its self-preservation, to forbid the entrance of foreigners within its dominions, or to admit them only in such cases and upon such conditions as it may see fit to prescribe.[2]

---

1 Oppenheim, L., *International Law, A Treatise, Volume 1 - Peace* (eighth edition), Lauterpacht, H. (ed.), Longmans, London, 1963, pp. 675-676.

2 *Nishimura Ekiu v United States* 142 U.S. 651, 659 (1892) per Gray J., cited in Goodwin-Gill, G. S., *International Law and the Movement of Persons Between States*, Clarendon Press, Oxford, 1978, p. 96.

2.3 From a similar perspective, Australia's High Court, in the case of *Robtelmes v Brenan*, held:

> One of the rights reserved by the supreme power in every State is the right to refuse to permit an alien to enter that State . . . and to expel or deport [aliens] from the State.[3]

2.4 In domestic immigration law, distinctions generally are made between those non-citizens who wish to reside in a country and those who wish to visit a country. This report focuses on the latter group, in particular the entry requirements for visitors.

2.5 Entry requirements for visitors vary in accordance with historical, geographical, political, social and economic relations between nations. As the relations between nations have changed, the requirements for visitor entry also have changed. In many instances, nations have entered into bilateral and multilateral agreements to facilitate entry by their nationals to each other's countries.

2.6 In this chapter, the Committee examines the controls which are used worldwide to manage the movement of people across national borders. In particular, the Committee focuses on the use of the visa as a mechanism for controlling and facilitating entry to a country.

The rationale for border control

2.7 The movement of people across national frontiers has been an enduring feature of the world's demographic history.[4] In the modern era, there has been a dramatic increase in international population movements. The United Nations has estimated that over 100 million people currently are living outside their national borders.[5] A significant proportion of such persons are refugees and asylum seekers.[6]

---

3 [1906] 4 CLR 395.

4 Stahl, C., Ball, R., Inglis, C., Gutman, P., *Global Population Movements And Their Implications For Australia*, Bureau of Immigration and Population Research, Australian Government Publishing Service, Canberra, 1993.

5 United Nations Population Fund, *The State of the World Population 1993*, New York, UNFPRA, 1993, cited in Millbank, A., Parliamentary Research Service, *Research Paper No. 13 1994, Global population movements, temporary movements in the Asia-Pacific region and Australia's immigration program*, Department of the Parliamentary Library, Parliament of the Commonwealth of Australia, p. 4.

6 In 1994, it was estimated that there were around 19 million persons in need of resettlement worldwide (United Nations Population Fund, Geneva, 1994, cited in Millbank, op. cit., p. 7). This estimate now has increased to around 23 million.

2.8 Alongside the increase in refugee numbers, a particular phenomenon of the twentieth century has been the substantial growth in temporary population movements, particularly temporary labour migration. Over 70 million people are estimated to be working, legally and illegally, in countries other than their own.[7]

2.9 At the same time, with the advent of regular air transport, travel for recreational purposes, including for holidays and family visits, has become simpler, cheaper and more accessible to a broader range of the world's population.[8] Tourism has become a major industry worldwide.

2.10 As population movements can have significant social, cultural, economic and political impacts, every nation has in place procedures for controlling the entry and departure of non-citizens from its territory. The principal objectives of such controls are to:

1. ensure that only those persons who have permission to enter the country do so;
2. ensure that non-citizens enter on terms prescribed by the receiving state and abide by those entry conditions;
3. prevent the entry of non-citizens who may pose a risk to public health, public safety or national security;
4. prevent non-citizens from settling in the country where permission to settle has not been obtained; and
5. facilitate the removal of non-citizens who:
   - do not have permission to be in the country;
   - have breached the conditions of entry;
   - have committed an offence while in the country; or
   - pose a risk to public health, public safety or national security.

Factors in border control

2.11 A range of factors can influence the way in which any nation manages the movement of people across its borders. Those factors can include:

- the geographic location of the country;

---

7 Millbank, op. cit., p. 4.

8 ibid.

- its historical links with other countries;
- the treaty arrangements it has entered into with other countries;
- domestic political, social and economic conditions; and
- global developments impacting on the country.

2.12 A country's geographic location is an important influence in determining the nature of its border controls. For a country such as Australia, which does not share land borders with any other country, travel to the country is achieved only by way of aircraft or sea vessel. Legal entry to the country is managed through a limited number of designated ports of entry, such as airports and shipping terminals. For such countries, their geographic location can provide a natural deterrent to unauthorised entry. This can be taken into account in establishing and maintaining appropriate border management systems.

2.13 By contrast, countries which share land borders with other countries are faced with the pressure of easier and more immediate access to their territory. Where land borders stretch over a significant distance, and where no natural barriers such as mountains or rivers exist, the challenge to maintain the integrity of those borders increases, particularly where strong 'pull factors', such as better economic and social conditions, make the particular country an attractive destination.

2.14 A country's history and its relations with other countries also can influence its policy and practice regarding the entry of non-citizens to its territory. For example, former colonial powers may have special entry arrangements for nationals of their former territories. Additionally, neighbouring countries may have longstanding arrangements giving special entry rights to each other's nationals. As noted by one commentator:

> . . . States which are bound together by political, historical or geographical ties commonly seal their cordial relationship by extending [entry] privileges to one another's nationals.[9]

2.15 Bilateral and multilateral treaties formalise particular ties between nations. The European Union is one example where a variety of treaty arrangements have been established with the aim of eliminating national borders to enable free movement of nationals and free trade between nationals of member states.[10]

---

9 Plender, R., *International Migration Law* (revised second edition), Martinus Nijhoff Publishers, The Netherlands, 1988, p. 5.

10 See also paragraphs 2.46 to 2.53.

2.16 Domestic pressures also can impact on the arrangements for entry of non-citizens to a particular country. States frequently impose employment restrictions on non-citizens to ensure that their own citizens are not disadvantaged in the labour market. Guarantees, such as financial bonds, also may be sought in respect of non-citizens to ensure that such persons abide by the conditions of entry. This generally occurs where there is a history of overstay by visitors from a particular country.

2.17 National conflicts, natural disasters and a dramatic increase in the number of asylum seekers may lead countries to reassess their border controls and restrict entry policies and practices. Alternatively, countries may modify their visitor entry arrangements to encourage visitors from and trade with particular countries, or may adjust their entry arrangements in response to specific events. A major international conference or sporting event may dispose a country to relax entry criteria for participants.

Immigration controls

2.18 A variety of mechanisms are used worldwide in managing the movement of people across national borders.

2.19 Essentially there are two common immigration control systems. One system focuses on border mechanisms for granting or refusing entry to non-citizens, including the use of visas. The other system, operating mainly in continental Europe, is reliant on after entry controls, including personal identification cards, work permits and alien registration schemes.[11]

Visas

2.20 Under the entry control system, permission to enter a country generally is evidenced in the form of a visa. The visa is an endorsement placed in a non-citizen's passport or other travel document by an authorised representative of the country to which the non-citizen is seeking entry. A visa clears a non-citizen for entry. It also is an endorsement on a non-citizen's passport showing that he or she has permission to stay.

2.21 Some countries, such as Australia, require all visitors[12] to obtain a visa prior to travel to the country and will grant a visa to unvisaed arrivals at the border only in particular circumstances. Other countries allow visitors to apply for visas either before travel or on arrival at the border. Alternatively, they

---

11 Plender, R., 'Recent trends in national immigration control', 35 *International and Comparative Law Quarterly* 531, 1986, Nafziger, J. A. R., 'Review of visa denials by consular officials', *Washington Law Review*, Vol 66, No 1.

12 Certain exemptions apply (see Chapter Four)

may dispose of the requirement for visitors to obtain a visa. The need to obtain a visa can be waived by agreement between countries, usually on a reciprocal basis.

2.22 Visas issued prior to travel signal to the relevant authorities that certain information on the visa holder has been obtained and checked in advance and that such initial checks have not given rise to any concerns which would warrant that person's exclusion from the country. Visitors arriving at a country's border can be subject to immigration and customs checks to verify identity and ensure that relevant character, health and customs requirements are satisfied.

2.23 Visas facilitate travel but do not guarantee entry. Visitors who fail to satisfy border checks can be excluded from the country notwithstanding that they have visas. Offshore issuance of visas is intended to reduce the nature and extent of such checks.

2.24 A visa generally is required to be exercised within a fixed period of time. It can provide for single or multiple journeys, and also outlines the conditions under which a non-citizen is granted permission to enter a country, including:

- the length of stay;
- the purpose of entry; and
- whether there are any restrictions or conditions on stay, such as restrictions on employment.

2.25 As travel to a country can be undertaken for a variety of reasons, countries generally have a range of visa categories to reflect the purpose for which a non-citizen has been granted permission to enter the country. These can include:

- transit visas, to allow passage through a country en route to another country;
- visitor visas, to allow entry and temporary stay for recreational purposes, tourism, and family and business visits;
- student visas, to allow entry and temporary stay to undertake approved study;
- temporary residence visas, to allow entry and temporary stay for specific purposes, for example to undertake temporary employment;
- permanent residence visas, to allow entry and permanent stay; and

- protection visas, to allow entry and temporary or permanent stay on refugee or humanitarian grounds.

After entry controls

2.26 As an alternative or supplement to requiring visas for the management of visitor entry and stay, many countries have in place internal controls for monitoring visitor movements and activities.

2.27 Many European Union countries require registers to be maintained by hotels and guest houses in which the full name and nationality of all guests are recorded. Non-citizens generally are required to give passport details and inform the hotel of their next address. In the United Kingdom, for example, the keeper of the premises is required to record the information and keep it available for inspection for at least 12 months.[13]

2.28 Many European countries also have laws which require non-citizens to register with relevant state or federal authorities and notify them whenever they change address.[14]

2.29 In addition, in various European countries, citizens and permanent residents are required to have identity cards which must be shown when seeking employment or access to health services or social welfare benefits. Such identity cards help to ensure that visitors do not undertake employment or access health services and welfare benefits where they are not so entitled.

Exclusion, detention and removal

2.30 All countries have procedures for excluding and removing non-citizens who do not have permission to enter or stay in the country or who, after entry, become ineligible to remain in the country.

2.31 Visitors arriving at the border who are denied permission to enter are liable to be returned to their country of origin. Where those visitors arrived by air, the airline which brought them to the country can be responsible for their return.

2.32 Visitors may be refused entry at the border for various reasons, including, for example, if their documentation is not in order or if evidence is discovered showing an intent to overstay, work illegally or engage in criminal activity. Turn-around procedures often operate on the principle that because the person has not been cleared through immigration control at the border that person has not entered the country. Where turn-around procedures cannot be

---

13 United Kingdom *Immigration (Hotel Records) Order 1972*, Statutory Instrument 1972/1689.

14 Evidence, p. S613.

effected immediately, for example where a return flight to the country of origin is not directly available, unauthorised visitors often are kept in a transit area or held in immigration detention pending their return.

2.33 Non-citizens who evade border controls, secure entry by fraud or breach their entry conditions, including by overstaying their permitted period of stay, are liable to be excluded, removed or deported from the country. Such non-citizens, described variously as illegal entrants, overstayers and unlawful or undocumented aliens or non-citizens, can be detained pending their exclusion, removal or deportation.

2.34 There are various immigration detention practices around the world, with differences in the permissible periods of detention and the categories of persons liable to be detained.[15] Essentially the purpose of immigration detention is to hold the person until return to the country of origin is effected or permission to remain is granted.

2.35 Taken together, visas, internal controls, border checks, turn-around procedures, detention and deportation form an integral part of national border management systems throughout the world. As indicated, each nation uses and adapts these controls in accordance with its particular circumstances and policies.

Visitor visas—international provisions

2.36 There is little in the way of universally accepted standards or agreements relating to visitor entry or visas. While certain international instruments deal with the entry and stay of diplomatic envoys, military personnel, refugees and temporary labour migrants, visitor entry is a matter for each nation to decide but can be a matter for negotiation between nations. As noted by one commentator:

> International law imposes relatively few constraints upon the power of the State to control at its will the admission and stay of foreign visitors. The customary rules applying in this area remain rudimentary . . . although they do provide a basis for maintaining that a State cannot close its borders to all aliens. The rules of law established by treaties open to universal participation are also meagre . . .[16]

15 See Joint Standing Committee on Migration, *Asylum, Border Control and Detention*, Australian Government Publishing Service, Canberra, 1994.

16 Plender, op cit. p. 355.

2.37 Even where travel and tourism issues have featured in deliberations of the United Nations and international standards on visas have been established, individual states are permitted to differ from those standards.[17] For example, parties to the Convention on International Civil Aviation agreed to adopt all practicable measures to expedite navigation of aircraft and to prevent delays through administration of their laws relating to immigration.[18] In accordance with that Convention, the International Civil Aviation Organization is responsible for developing standards and recommended practices for facilitating the movement of passengers and cargo. One such recommended practice, as outlined in Annex 9 to the Convention, provides that:

> Contracting States should extend to the maximum number of countries the practice of abolishing, through bilateral or multilateral arrangements or through unilateral action, entrance visas for visitors.[19]

2.38 At the same time, Article 28 of the Convention provides that:

> Any State which finds it impracticable to comply in all respects with any such international standard or procedure, or to bring its own regulations or practices into full accord with any international standard or procedure . . . or which deems it necessary to adopt regulations or practices differing in any particular respect from those established by an international standard, shall give immediate notification to the International Civil Aviation Organization of the differences between its own practice and that established by international standards . . .

2.39 In this regard, Australia is one of many nations which have advised the International Civil Aviation Organization that their practices differ from the recommended practices outlined in Annex 9. Indeed, because visa systems continue to operate around the world, the International Civil Aviation Organization is promoting standards for machine-readable visas.

2.40 The Organisation for Economic Co-operation and Development (OECD) also has advocated the standardisation and reduction of administrative controls on the arrival and departure of travellers, particularly tourists. It has encouraged standardisation of a national identity card for use by nationals of OECD members, including its substitution for the passport as a travel document.

17 Turack, D. C., 'Freedom of Movement and the Travel Document', *California Western International Law Journal*, Vol. 4, 1973, p. 13.

18 Articles 22 and 23.

19 Recommended practice 3.7, Annex 9 (ninth edition, July 1990), Convention on International Civil Aviation

It also has encouraged a minimum of frontier controls on tourists in order to ease their movement.[20]

2.41 In 1985, the OECD's Council on International Tourism Policy recommended that visas should not be required for tourists staying less than three months, or if visas are required, that they should be free, easy, quick to obtain and permit 'multiple entry'.[21] Once again, the implementation of such recommendations ultimately remains a matter for individual member states. Australia lodged a reservation in relation to this recommendation.

2.42 While broad international agreement on national entry requirements has been difficult to achieve, regional and bilateral treaty networks increasingly have addressed the issues of free movement and free trade between friendly states. Visitors have been particular beneficiaries of such regional and bilateral arrangements. In the section which follows, the Committee considers certain relevant visitor arrangements.

Visitor visa systems of overseas countries

2.43 During the inquiry, it was argued that Australia's policy of requiring visitors to obtain a visa prior to arrival in Australia is out of step with developments in other countries which aim to facilitate visitor entry. In particular, the Committee was told about visitor arrangements in New Zealand, the United States of America and among European Union countries.

2.44 The European Union's visa arrangements attracted some attention during the inquiry because of some concerns that the moves towards a common border between European Union countries may lead to the imposition of reciprocal visa requirements for Australians travelling within the European Union. In light of these concerns, it was important for the Committee to consider the nature and relevance of the developments in Europe.

2.45 The visa systems of the United States and New Zealand, on the other hand, were promoted in various submissions as models which the Committee could consider for adoption in Australia. Both of those countries have introduced visa waiver arrangements whereby nationals of selected countries are not required to apply for a visa in order to travel to the country. The Committee examined the operation of those arrangements as a basis for determining whether they might be applicable and appropriate to Australia.

---

20 OECD. *Forward to International Tourism and Tourism Policy in OECD Member Countries*, Paris, 1971; Turack, op. cit..

21 Organisation for Economic Co-operation and Development, Decision-Recommendation of the Council on International Tourism Policy C(85)165 (Final) adopted 27 November 1985, cited in Heilbronn, G. N., *Travel and Tourism Law in Australia and New Zealand*, The Federation Press, Sydney, 1992, p. 33.

European Union countries

2.46 The European Union (formerly European Community) represents a comprehensive regional arrangement for facilitating the movement of people across national borders. It is a modern example of individual nation states seeking to move beyond the principle of national sovereignty to establish a broader community of countries sharing common principles and practices. As noted in an analysis of European Community law:

> The opening up of frontiers within the European Communities—which has no precedent elsewhere in the world . . . could be achieved only in an altogether very closely integrated system like the European Communities, which in this regard, too, is unique.[22]

2.47 From the outset, two key objectives of the European Community were the establishment of a common market for goods and services and the abolition between member states of obstacles to freedom of movement for persons. In this regard, the European Economic Community Treaty established the fundamental principles of:

- freedom of movement for workers (Article 48);
- freedom of establishment for the self-employed (Article 52); and
- freedom of movement for those supplying services and those travelling as recipients of services, such as tourists (Articles 59 and 60).

2.48 The European Economic Community Treaty also established that the nationals of one member state can be restricted from entering and residing in another member state only on the grounds of public policy, public security or public health. Subsequently, the Treaty on European Union, signed at Maastricht in February 1992 and implemented on 1 November 1993, established European Union citizenship, with every national of a member state becoming a citizen of the European Union. Citizens of the European Union enjoy the rights conferred by the treaty, which include the right to live and work anywhere in the territory of any member state, subject to public policy, public security and public health limitations. By contrast, the entry of nationals from non-member states remained a matter for the domestic law of individual member states, with no measures adopted at the European Union level.

2.49 The United Kingdom, Ireland and Denmark have been particularly vocal in resisting the dismantling of their border immigration controls. As a

---

22 Stein, T. and Thomsen, S., 'The Status of the Member States' Nationals under the law of the European Communities', Frowein, J. and Stein, T. (eds.), *The Legal Position of Aliens in National and International Law*, Springer-Verlag, Berlin, 1987, p. 1776

response to such dissenters, nine member states of the European Community (Belgium, France, Germany, Greece, Italy, Luxembourg, the Netherlands, Portugal and Spain) signed the Schengen Agreement which aims to bring about the elimination of border controls for people travelling between Schengen States.[23] The Schengen Agreement became operational on 26 March 1995 in all Schengen States except for Greece and Italy.[24]

2.50 The Schengen Agreement eliminates internal borders between Schengen States. At the external borders of Schengen States a standard check on entrants is to be carried out by the relevant national authorities according to the national law of each State.[25] Within each Schengen State, internal border inspections may be conducted only where public order or national security demands, and then only for a limited period and after consultation with the other Schengen States or, in urgent cases, after immediate notification.[26]

2.51 Under the Schengen Agreement, foreign nationals seeking to enter the Schengen territory for a stay which does not exceed three months must:

- possess a valid document enabling the crossing of the border, including, where required, a visa;
- have sufficient means of support available or the possibility of acquiring them legally;
- not have been reported as ineligible for entry into the Schengen entity; and
- not be considered a danger to the public order, national security or international relations of one or other Member State of Schengen.[27]

2.52 While entry for longer than three months remains solely a matter of national responsibility, the Schengen Agreement provides that foreign nationals who possess a valid residence permit or a visa which is valid for more than three months must be accorded transit rights to the territory of the Schengen State

23 The Schengen Agreement broadly followed an earlier transfer of border controls by Benelux countries (Belgium, Netherlands, Luxembourg) agreed to in 1960. Entry was effected through the external borders of the Benelux region and internal border controls were abolished.

24 The Delegation of the European Commission in Canberra advised that technical problems have delayed implementation of the Schengen Agreement in Greece and Italy. No subsequent date has been set for implementation of the Agreement in those countries.

25 Theys, M., *The Schengen Agreements on freedom of movement for persons in the European Union*, Ministry of Foreign Affairs, External Trade and Development Cooperation, Brussels, 1995, pp. 4-5.

26 ibid., p. 14.

27 ibid.

which issued those documents.[28] As a first step towards the establishment of a common visa, the Schengen States have agreed on the mutual recognition of each other's national visas.[29]

2.53 On the issue of visas, the Schengen States have drawn up a list of 109 countries whose nationals are obliged to have visas in order to enter the territory of Schengen States. That list cannot be modified without unanimous agreement.[30] Australia is not included on that list.

United States of America

2.54 As a general rule, non-citizens seeking entry to the United States of America are required to possess a valid, unexpired passport and a valid visa. Those not requiring a visa include temporary visitors from Canada and Mexico who possess a border crossing card, certain transit passengers and persons eligible for a visa waiver under the visa waiver pilot program (see paragraph 2.63).

2.55 Non-citizens seeking entry to the United States on a temporary basis are termed non-immigrants. They are admitted for a particular purpose and for a specific period of time. Of the 13 major entry classifications under United States immigration law, non-immigrants visiting for business or pleasure form the largest category of non-citizens entering the United States. The United States Travel and Tourism Administration estimated that around 49 million visitors were expected to arrive in the United States in 1995.[31]

2.56 As a general rule, applications for permission to enter the United States are made abroad at a United States mission. Visas are granted or refused by State Department consular officers, although primary responsibility for the enforcement and application of the immigration laws lies with the Immigration and Naturalization Service (INS), which is an agency within the Department of Justice. This contrasts with the Australian situation where responsibility for overseas visa issuance traditionally has been shared between immigration officers posted to overseas missions and consular officials, with the Immigration Department retaining overall responsibility for visa issuance as well as the application and enforcement of immigration law (see also Chapter Five).

28 ibid.

29 ibid.

30 ibid.

31 United States House of Representatives Committee on the Judiciary, Subcommittee on International Law, Immigration, and Refugees, Transcript of hearing on the Visa Waiver Program, 11 August 1994, U.S. Government Printing Office, Washington, p. 68.

2.57 Non-immigrants seeking a visa to enter the United States must satisfy a consular official that they are eligible to obtain a visa and that they are not excludable on specified grounds, including certain criminal convictions, terrorism, fraud, misrepresentation, and drug offences. Section 214(b) of the Immigration and Nationality Act states:

> Every alien shall be presumed to be an immigrant until he establishes to the satisfaction of the consular official, at the time of application for a visa . . . that he is entitled to a non-immigrant status under section 101(a)15.

2.58 Section 291 of the Immigration and Nationality Act places the burden of proof upon the applicant to establish eligibility to receive a visa. To obtain a visa, non-immigrants must be able to demonstrate that they:

- have sufficient funds to sustain themselves for the period of stay;
- intend leaving the country at the conclusion of their period of stay; and
- do not intend seeking work during the period of their stay.

2.59 In evidence to a congressional hearing, the INS noted that consular officials are admonished to judge each application on its individual merits, to give due consideration to any and all supporting documents presented by the applicant, and to carefully weigh the written and oral statements made by the applicant.[32] In this regard, the United States Foreign Affairs Manual, which guides visa adjudication at all consular posts, states:

> The applicant is entitled to have full consideration given to any evidence presented to overcome a presumption or finding of ineligibility. It is the policy of the U.S. government to give the applicant every reasonable opportunity to establish eligibility to receive a visa.[33]

2.60 Commenting further on the assessment of visa applications, the INS stated:

> Consular officers recognize that each applicant's circumstances are unique; therefore, while employment verifications, bank statements, and property deeds can provide valuable information on an applicant's circumstances, there is no specific set of documents which is required for visa issuance.[34]

2.61 If the consular officer is not satisfied that the non-citizen has met the requirements for visa issuance, the application for a visa must be refused. According to the INS, non-immigrants are refused visas mostly because of insufficient documentation or because they are unable to satisfy consular officials that they only intend to stay temporarily.[35]

2.62 Issuance of a visa is no guarantee of entry. Non-immigrants are subject to checks at the point of entry by INS border officials.

2.63 In 1986, the general requirement for non-citizens to obtain a visa for entry to the United States was modified when the Immigration Reform and Control Act created the visa waiver pilot program. That Act authorised the Attorney-General and the Secretary of State to jointly designate eight countries whose nationals could visit the United States for business or pleasure for up to 90 days without applying for non-immigrant visas at United States consulates in advance of their arrival.[36]

2.64 The visa waiver pilot program was implemented on 1 July 1988, when the United Kingdom was designated as the first participating country, followed by Japan on 15 December 1988. Six additional countries were added in July 1989.[37]

2.65 In May 1990, the Attorney-General and Secretary of State reported to Congress that the program had been a success in meeting the goals of promoting international travel and saving government funds. At the same time, it was acknowledged in that report that while the Department of State had realised savings through a significant reduction in non-immigrant visa issuance at consular posts in the eight participating countries, the INS had the added burden of increased processing times and costs associated with visa waiver pilot program applicants at ports of entry.[38]

2.66 In accordance with the recommendations of that report, the Immigration Act of 1990 extended the pilot program to 30 September 1994, eliminated the numerical limitation on countries in the program and added a requirement that designation of a country would not compromise the law enforcement interests of the United States.[39]

---

32 ibid., p. 87.

33 ibid.

34 ibid., pp. 87-88.

35 ibid., p. 87.

36 ibid., p. 71.

37 ibid., pp. 72-73.

38 ibid., p. 73.

39 ibid.

2.67 In October 1991, 13 countries were added to the program. A further country, Brunei, was designated in July 1993.[40] In April 1995, Ireland was included in the program on a probationary basis, bringing to 23 the total number of participating countries.[41] Those countries are:

Andorra	Iceland	New Zealand
Austria	Ireland (probation)	Norway
Belgium	Italy	San Marino
Brunei	Japan	Spain
Denmark	Liechtenstein	Sweden
Finland	Luxembourg	Switzerland
France	Monaco	United Kingdom.
Germany	Netherlands	

2.68 The legislative criteria for inclusion of a country in the program are that:

- the country has less than a 2 per cent average refusal rate for non-immigrant business and tourist visas for the two previous full fiscal years;
- the country has less than a 2.5 per cent refusal rate for such visas for either of the two previous full fiscal years;
- the country issues machine-readable passports or is in the process of developing a program to issue machine-readable passports;
- the country is determined by the Attorney-General not to represent a problem to United States law enforcement interests if designated for participation; and
- the arrangement is reciprocal.[42]

2.69 According to the United States Department of State, a country does not automatically become a participant in the program by meeting the qualifying criteria. Formal and informal consultations take place among border security

40 ibid., p. 74.

41 Information leaflet on the visa waiver pilot program issued by the Consulate General of the United States of America, Sydney, Australia, April 1995.

42 Committee on the Judiciary, op. cit., p.53; Evidence, p. S639.

agencies before a country is nominated for the program. The Attorney-General and Secretary of State acting jointly may refrain, for any reason, from designating a country for participation or may rescind the designation of any country. A number of countries which have the requisite refusal rates and machine-readable documents have not been accepted into the program for other reasons. According to the Department of State, those reasons can include law enforcement and security concerns, lax citizenship laws and vulnerability to smuggling.[43]

2.70 According to the INS, 14 countries which met the statistical requirements of the visa waiver pilot program were not included. Australia did not offer reciprocity. Bahrain, Oman, Qatar, Vanuatu and the Vatican had no plans to develop a machine-readable passport. Gabon, the Maldives, Malta, Papua New Guinea, Sao Tome, South Africa, Singapore and the United Arab Emirates were excluded for other reasons not specified publicly by the INS.[44]

2.71 A country also can be removed from the visa waiver pilot program if its overstay rate exceeds 2 per cent for the previous year. No countries have been removed from the program to date, even though some have exceeded that overstay rate.[45]

2.72 In order to be eligible for a visa waiver, nationals of the designated countries must:

- be applying for admission as a visitor for business or tourism for a period of 90 days or less;
- be a national of, and bear a valid passport of, a participating country;
- have a round trip non-transferable transportation ticket issued by a participating carrier which is valid for one year and is non-refundable except in the country of issue, nationality or residence;
- not have violated conditions of previous admissions under the visa waiver pilot program;
- not be excludable from the United States on grounds such as being afflicted with a contagious disease or mental illness, being a narcotics addict or trafficker, convicted of crimes, deported from the United States or a member of a communist organisation;

43 Committee on the Judiciary, op. cit., pp. 50-51, p. 54, p. 96.

44 ibid., p. 96.

45 ibid., p. 49.

- not be a threat to the welfare, health, safety and security of the United States; and

- waive all rights of review or appeal of an admissibility determination made by an immigration officer and all rights to contest action in deportation except on asylum grounds.[46]

2.73 According to the Department of State, the mere fact that a country participates in the visa waiver pilot program does not mean that all of its citizens will be admitted to the United States automatically. An individual applying for admission must not be excludable under the Immigration and Nationality Act. Immigration inspectors are required to check all arriving non-citizens, including those from visa waiver countries, against the interagency border inspection system, which includes the records from the consular lookout system and the INS's automated immigration lookout system.[47]

2.74 The visa waiver pilot program also requires participating carriers to enter into a formal agreement before they can transport travellers with a visa waiver to the United States. The agreement outlines the conditions of the program, the responsibilities of the carriers in abiding by those conditions and the sanctions they face for failure to comply with the terms of the agreement.[48]

2.75 Non-citizens eligible for a visa waiver are provided with a short-term entry permit on arrival at the United States border allowing entry and stay for a maximum of 90 days. The period of stay cannot be extended, even if the non-citizen were to marry an American citizen.[49]

2.76 Between 1 July 1988 and 30 June 1993, a total of 55 147 504 non-immigrants were admitted to the United States from countries included in the visa waiver pilot program. Only those non-immigrants who satisfied the criteria outlined in paragraph 2.71 entered under a visa waiver. The number of non-immigrants entering under a visa waiver totalled 31 301 149.[50]

2.77 On 11 August 1994, a congressional hearing on the visa waiver pilot program considered whether the program should be continued on a permanent basis and extended to include other countries. The outcomes of the program to date, including successes achieved and problems encountered, were canvassed at that hearing.

46 ibid., pp. 53-54, p. 72; Evidence, p. S640

47 Committee on the Judiciary, op. cit., p. 51, p. 54.

48 Evidence, p. S611, pp. S641-S642.

49 Committee on the Judiciary, op. cit., p. 28, p. 44, p. 54.

50 ibid., p. 74.

2.78 In general terms, witnesses stated that the program was a success. The Assistant Secretary of Consular Affairs at the United States Department of State noted:

> As Department of State officials have testified several times in past years, the visa waiver pilot program has been in our opinion outstandingly successful in meeting its stated goals of improving the use of government resources and encouraging international travel to the United States, without diminishing the security of our borders.[51]

2.79 On the issue of border security, one congressional representative commented:

> The experience with the pilot program demonstrates that inspection by an immigration officer at the point of entry is a sufficient safeguard for visitors from certain countries selected on the basis of objective criteria.[52]

2.80 The Department of State highlighted the significant resources which would need to be expended on visa issuance if the visa waiver program did not exist. It stated:

> There were approximately 9.5 million admissions of persons with visa waivers in fiscal year 1993 . . . it would have cost us about $175.5 million to issue that many visas. The cost of resuming non-immigrant visa issuance in all the countries now participating in the waiver [program] would be even higher. There would be substantial startup cost to establish the infrastructure, the facilities, the equipment, et cetera, needed to handle the additional work load, as well as a significant increase in the number of consular personnel coming at a time when the U.S. Government is downsizing.[53]

2.81 The Department of State estimated that if the visa waiver pilot program had not been in operation, it would have had to process about 15 million non-immigrant visa applications in the 1993 fiscal year instead of the

51 ibid., p. 50.

52 ibid., p. 15.

53 ibid., p. 51.

seven million applications which it actually processed. The Department of State's Assistant Secretary, Consular Affairs commented:

> We would need to divert resources from other important functions to resume visitor visa functions, without any assurance that this would enhance our overall border security. I think there would also be a very adverse impact on the tourism industry that is so important to our national balance of payments.[54]

2.82 The INS also supported continuation of the visa waiver program on a permanent basis. While noting that it initially was tentative about the program, because it removed one of two steps considered necessary for the grant of entry, the INS commented:

> The fact of the matter is . . . the program has been a very effective program. It has allowed the government overall to target its resources more effectively. In other words, spend less on what are compliance travellers and focus more on where the problem areas might be.[55]

2.83 In supporting the permanent continuation of the visa waiver program, the INS indicated that the benefits have outweighed the risks of increased illegal entry. The INS stated:

> The economic benefits realized through the promotion of international travel when contrasted with only a small increase in the risk of ineligible persons entering or remaining in the United States argues forcibly for its continuance.[56]

2.84 The Under Secretary of Commerce for Travel and Tourism also supported continuation of the visa waiver program on a permanent basis and argued for its expansion. He commented:

> The program has proven that federal resources are more effectively used, statutory responsibilities are met, and tourism is encouraged where red tape is cut. By reducing the paperwork requirements for entry into this country for legitimate travellers and reducing staff in countries where visa waivers are available, resources can be re-deployed where needed rather than increased overall.[57]

54 ibid., p 52

55 ibid., p. 70.

56 ibid., p. 77

57 ibid., p. 65.

2.85 According to the Under Secretary of Commerce for Travel and Tourism, between 1988 and 1993 arrivals to the United States from nine of the visa waiver countries (France, Germany, Italy, Japan, Netherlands, New Zealand, Sweden, Switzerland and the United Kingdom) grew 774 per cent compared to the 49 per cent growth rate for all overseas visitors.[58] No information was provided on visitor growth rates for the other visa waiver countries.

2.86 Other evidence provided by the Under Secretary of Commerce for Travel and Tourism indicated that in certain countries the United States was experiencing a decline in its share of the international tourist market. As one example, the Under Secretary claimed that Korean visitors who would otherwise travel to the United States were going to Australia and Canada because of the ease with which they can enter both countries.[59]

2.87 While there was broad support for continuation of the visa waiver pilot program, those attending the congressional hearing, including government officials and congressional representatives, outlined some of the difficulties and concerns which have arisen. Those concerns related to the operation of the program as well as its outcomes.

2.88 One concern related to the impact of the program on immigration clearance procedures at the border. The Under Secretary of Commerce for Travel and Tourism commented:

> The visa waiver pilot program eliminated red tape at the departure end, but does not speed the entry process. Every effort must be made to eliminate unnecessary bottle necks that delay travellers who are tired at the end of long trips and whose first impression of the United States is formed by an INS inspector. Automation of inspections is useful in speeding passengers through the process. Requiring machine-readable passports from passengers using the visa waiver is essential.[60]

2.89 On this issue, the INS noted that there has been a fourfold increase in INS personnel resources at airports since the visa waiver pilot program commenced. According to the INS, increased staffing has been made possible because of a user fee that was introduced.[61]

58 ibid., p. 64.

59 ibid., p. 58.

60 ibid., p. 66.

61 ibid.

2.90 As for overstay, it was noted that in 1991-92 there were around 41 000 overstayers from countries included in the visa waiver pilot program, which represented around 0.35 per cent of all overstayers.[62] According to the INS, this estimate has a six percent error rate. The INS indicated that it was able to match arrival and departure records for 92 per cent of visa waiver entrants.[63]

2.91 Another concern was that the criteria for inclusion of a country in the program created unfairness and inconsistency. The INS noted that the program had adopted a two per cent refusal rate as a criterion for inclusion because it was the 'best percentage' that could be found at the time.[64] Some congressional representatives, however, argued that the criterion operated unfairly.

2.92 One congressional representative suggested that exclusion of countries from the program implied secondary status.[65] Other representatives expressed concern at the then exclusion of Ireland and Portugal from the program. It was noted that Ireland was excluded from the program because its offshore visa refusal rate of 2.13 per cent was slightly over the limit, even though the overstay rate for Irish visitors in the United States was lower than the overstay rate for nationals of certain visa waiver countries such as Austria, Italy and the United Kingdom.[66]

2.93 One proposal canvassed at the congressional hearing was to bring countries such as Ireland and Portugal into the program by way of probationary status. On this issue, the INS warned that if the criteria were altered to allow for inclusion in the program of countries with higher visa refusal rates, there would be increased pressure on arrival points, as more careful examination of arrivals would be required by immigration officers.[67]

2.94 The overstay rates of Austria, Italy and the United Kingdom also prompted observations about the difficulties associated with removing countries from the program should they cease to satisfy the relevant criteria. In this regard, it was noted that no country has been removed from the program, even though certain countries no longer satisfy the criteria for remaining in the

62 ibid., p 94.

63 ibid., p 92

64 ibid., p 82

65 ibid., p 25.

66 ibid., p 15, pp. 31-32, p. 36

67 ibid., p 83

program, namely that their overstay rate must be under 2 per cent.[68] The INS commented:

> We all know that it is difficult to take a privilege away, once it has been given . . . There are not only sensitive questions where the relationships are concerned, there are real questions in terms of what it would mean for the State Department to be reallocating to those countries the resources required to again be issuing visas.[69]

2.95 On 25 October 1994, legislation was passed extending the visa waiver pilot program to 30 September 1996. As noted, Ireland was included in the program on a probationary basis. The probationary period commenced on 1 April 1995 and continues until either 30 September 1998 or the expiry of the visa waiver program, whichever comes first. In addition, visa waiver travellers now may apply for entry at land borders. Such travellers do not need to present a round-trip transportation ticket, but must provide proof of financial solvency and a domicile abroad to which they intend to return.[70]

2.96 Many of the issues relating to the operation of the visa waiver pilot program also were raised in evidence to the inquiry into Australia's visa system for visitors. Those supporting the introduction of a visa waiver program in Australia highlighted the benefits of the United States model, while those opposed to visa waiver highlighted the difficulties which could arise if such a program were introduced in Australia. The Committee considers the feasibility and appropriateness of adopting a visa waiver system in Australia in Chapter Six.

New Zealand

2.97 Prior to 1987, New Zealand's visitor system was similar to that operating in Australia. With a few exceptions, non-citizens seeking to enter and stay in New Zealand were required to possess a valid visa before travelling to New Zealand. Australian citizens, residents of the Cook Islands, Tokelau and Niue, and certain designated persons, such as guests of government, were not required to possess a visa.

2.98 In 1987, New Zealand amended its visitor visa arrangements with the objectives of increasing tourism to and investment in New Zealand, as well as strengthening bilateral relations. Under the revised arrangements now operating, nationals of designated countries who are seeking entry to

68 In this regard, it is relevant to note the advice from the INS (as noted at paragraph 2.88) that it allows a six per cent estimation error rate in calculating the overstay rate

69 Committee on the Judiciary, op cit., p 79.

70 Information leaflet issued by the Consulate General of the United States of America, Sydney, Australia, April 1995

New Zealand for non-working visits of up to three months are not required to obtain a visa prior to arrival in New Zealand. Instead, upon arrival, they are required to complete an arrival card and, subject to appropriate immigration checks, are granted a temporary entry permit at the border.[71]

2.99 New Zealand's selective offshore visa free arrangements currently apply to nationals of the following 33 countries:

Austria	Ireland	Netherlands
Belgium	Italy	Norway
Brunei	Japan	Portugal
Canada	Kiribati	Singapore
Denmark	South Korea	Spain
Finland	Liechtenstein	Sweden
France	Luxembourg	Switzerland
Germany	Malaysia	Thailand
Greece	Malta	Tuvalu
Iceland	Monaco	United Kingdom
Indonesia	Nauru	United States[72]

2.100 New Zealand's revised visitor visa arrangements do not affect the status of Australian citizens, who continue to require only a valid Australian passport in order to enter New Zealand.

2.101 In 1993, fewer than 10 per cent of visitors to New Zealand required a visa. Where a visa is required, applications generally are processed within seven days of receipt. In the year to date, 96 per cent of visitor visa applications were processed within that time frame.[73]

2.102 Data on arrivals keyed at the point of entry is limited to that required for immediate needs such as alert list matching. Arrival cards are sent to statistics and immigration offices for later data capture. Australia and New Zealand have access to each other's passport databases which enables more efficient processing of each other's citizens. Such processing averages 53 seconds.

71 Letter from the New Zealand High Commission, Canberra, Australia, dated 1 November 1994.

72 ibid.

73 ibid.

For all other nationalities including those travelling under visa free arrangements the average is 75 seconds.[74] No information was provided on the impact of the visa free policy on processing times.

2.103 New Zealand's Deputy High Commissioner to Australia also told the Committee that no specific information is available on the impact which visa free travel is having on tourism. According to the Deputy High Commissioner, the New Zealand Tourism Board had a 'gut feeling' that visa free travel arrangements have contributed to an increase in visitors from certain countries, but the Board was not able to quantify that increase.[75]

2.104 One source country showing a substantial increase in visitor arrivals to New Zealand was South Korea, which in August 1993 was added to the list of countries covered by the revised visitor visa arrangements. Statistics for the year ended April 1994 show that during that period there was a 138 per cent increase in South Korean visitors, from 16 772 to 39 967. In this regard, it is notable that the number of South Korean visitors to Australia during that period increased by 96 per cent, from 41 278 to 80 904.[76]

2.105 The number of overstayers in New Zealand from all countries has increased by 3.9 per cent since 1987.[77] In relation to visa free travellers, New Zealand authorities have not reported any significant changes to illegal immigration or general non-compliance with entry conditions.[78] Illegal immigration has increased by only 1.5 per cent.[79] According to the Deputy High Commissioner, the New Zealand Immigration Service finds relatively few cases involving immigration fraud, overstay or non-compliance with visitor conditions.[80]

2.106 In relation to New Zealand's overstay figures, DIEA noted that these are derived figures which, unlike Australian statistics, are not calculated by matching individual names for arriving and departing passengers.[81]

74 Letter dated 14 July 1995 from the Deputy High Commissioner, New Zealand High Commission, Canberra, Australia.

75 Transcript of briefing, 28 June 1995, p. 4, pp 17-18.

76 Evidence, p. S648.

77 Evidence, p. S256.

78 Transcript of briefing, 28 June 1995, pp. 5-6.

79 Evidence, pp. S256-S257, S267.

80 Transcript of briefing, 28 June 1995, p. 4.

81 Transcript of briefing, 25 August 1995, p. 12.

2.107 No information was available on resource outcomes since the implementation of New Zealand's selective visa-free policy. The New Zealand High Commission indicated that the costs of visa free arrangements other than compliance costs had not been quantified.[82]

2.108 Strategies currently under discussion for further streamlining of entry processes in New Zealand include the implementation of separate lines for arrivals from New Zealand/Australia and other nationals, installation of equipment to read passports and the use of electronic pre-clearance for all arrivals.[83]

2.109 Although limited statistical evidence was available to the Committee on New Zealand's selective visa free travel arrangements, the Committee noted the information it was able to obtain in determining whether similar arrangements could operate in Australia. The Committee's deliberations in this regard are detailed in Chapter Six of this report.

82 Letter dated 1 November 1994 from the New Zealand High Commission, Canberra, Australia.

83 Transcript of briefing, 28 June 1995, p. 5; letters dated 1 November 1994 and 14 July 1995 from the New Zealand High Commission and Deputy High Commissioner, Canberra, Australia.

Section Two

OVERVIEW OF AUSTRALIA'S VISA SYSTEM FOR VISITORS

In this second section of the report, the Committee provides an overview of Australia's visa system for visitors.

In Chapter Three, the Committee outlines the profile of visitors to Australia and how that profile has changed over the past five decades. The Committee also details the benefits and costs which are associated with visitor entry to Australia.

In Chapter Four, the Committee provides an overview of the legislative provisions governing visitor entry to Australia, focusing on the requirements for obtaining a visitor visa.

In Chapter Five, the Committee details the administrative processes for visa issuance, outlining the various changes which have been introduced, particularly over the past decade.

In this section of the report, the Committee provides an outline of the current visitor visa system as a basis for its deliberations on the future of that system.

Chapter Three

AUSTRALIA'S VISITOR PROFILE

Introduction

3.1 Permanent migration has remained an enduring feature in the development of modern Australian society. Migrants from countries throughout the world have arrived in Australia in search of a better life for themselves and their families.

3.2 In the past few decades, however, the number of permanent arrivals has been overshadowed by a dramatic increase in visitors to Australia. Visitors, including tourists, those visiting family and friends, as well as business people, now comprise the largest proportion of arrivals to Australia.

3.3 This change in focus has impacted on the way in which entry to Australia is managed. While the issuance of visitor visas previously was an ancillary function to the management of the permanent migration program, it now constitutes a primary responsibility of the immigration portfolio.

3.4 Before assessing the operation of Australia's visa system for visitors, including its appropriateness and effectiveness, it is important to consider the changing context within which that system has developed. In this chapter, the Committee outlines the profile of visitors to Australia, including evidence the Committee received on future prospects for visitor growth and the implications of any such growth.

Number of visitors

3.5 Prior to the advent of mass travel by air, arrivals to Australia generally comprised permanent settlers, itinerant labourers from Asia and the Pacific islands, and a small number of visitors. As noted by DIEA:

> Australia was in those times a far destination for migrants and visitors, and travel was by ship. There was little, if any, of the spontaneous long distance global travel which occurs today.[1]

3.6 With the introduction of regular air transport services, which made travel cheaper and open to more people, Australia gradually moved from being an isolated destination to a major travel destination for tourists and the relatives of those who earlier had migrated to Australia. Economic growth, particularly in

---

1 Evidence, p. S600.

the Asia-Pacific region, also led to a significant increase in business travel to Australia.

3.7 Over the past four decades, the number of visitors arriving in Australia has increased rapidly, significantly exceeding the number of permanent settlers (see Table 3.1).[2] This includes short term visitor arrivals, who stay for less than twelve months, and long term visitor arrivals, who stay for more than twelve months.[3]

TABLE 3.1[4]

Arrivals in Australia

Year	Total number of visitor arrivals	Short term visitor arrivals	Long term visitor arrivals	Permanent settlers
1959-60	87 732	75 984	11 748	105 887
1969-70	419 033	389 191	29 842	185 099
1979-80	906 320	876 734	29 586	80 748
1989-90	2 203 930	2 147 200	56 730	121 230
1994-95	3 607 330	3 535 300	72 030	87 430

2 Due to the use of multiple entry visas, the statistics provided in Table 3.1 do not represent the number of *separate individuals* who come to Australia as visitors, but rather the total number of *visitor arrivals* in a given financial year.

3 This is not to be confused with short stay visitor visas, which are issued for stays of up to three months, and long stay visitor visas, which are issued for stays of beyond three months (see Chapter Four).

4 Australian Bureau of Statistics, *Overseas Arrivals and Departures*, various years; Department of Immigration, *Australian Immigration Consolidated Statistics, 1970*; Bureau of Immigration Research (now Bureau of Immigration, Multicultural and Population Research), *Immigration Update*, various editions.

3.8 Over the past five years, the growth in short term visitor arrivals has averaged 11 per cent annually. The growth rate from 1993-94 to 1994-95 was 12 per cent.[5] By region, the increases in short term visitor arrivals between 1993-94 and 1994-95 included:

- 262 400 additional visitor arrivals from Asia (18 per cent growth);
- 70 900 additional visitor arrivals from Europe (11 per cent growth);
- 18 400 additional visitor arrivals from Oceania (3 per cent growth)
- 14 900 additional visitor arrivals from the Americas (4 per cent growth);
- 3 500 additional visitor arrivals from the Middle East/North Africa (16 per cent growth); and
- 900 additional visitor arrivals from Africa (2 per cent growth).[6]

3.9 This level of growth in visitor arrivals to Australia is expected to continue. The Tourism Forecasting Council has predicted that the number of visitors to Australia will grow at an average annual rate of 9.7 per cent, resulting in 7.6 million visitors in the year 2003. According to the Department of Tourism, these figures take into account the anticipated impact of the Sydney Olympic Games on visitor numbers.[7]

Countries of origin

3.10 Half of Australia's short term visitors currently come from Asia. As noted by one commentator:

> Australia's visitor profile is becoming increasingly Asian dominated, a trend that is reinforced by the level of Australian-Asian trade, the opening of new aviation routes, and the rate of Asian investment in the Australian tourism industry.[8]

5 Australian Bureau of Statistics, *Overseas Arrivals and Departures, June 1995*, p. 3.

6 ibid., p. 7.

7 Evidence, p. S677.

8 Hal, C. M., *Tourism in the Pacific Rim, Development, Impacts, and Markets*, Longman Cheshire, Melbourne, 1994, p. 141.

3.11 In 1994-95, the number of short term visitor arrivals to Australia totalled 3 534 300, comprising:

- 1 741 500 from Asia (49.3 per cent);
- 747 400 from Europe (21.2 per cent);
- 608 600 from Oceania (17.2 per cent);
- 369 100 from the Americas (10.4 per cent);
- 42 000 from Africa (1.2 per cent); and
- 25 700 from the Middle East/North Africa (0.7 per cent).[9]

3.12 Six Asian nations featured in the top ten source countries of short term visitor arrivals to Australia during 1994-95. The top ten source countries were:

- Japan, with 742 300 visitor arrivals (21 per cent of short term visitor arrivals);
- New Zealand, with 501 800 visitor arrivals (14 per cent);
- United Kingdom, with 354 500 visitor arrivals (10 per cent);
- United States of America, with 295 200 visitor arrivals (8 per cent);
- Singapore, with 196 400 visitor arrivals (6 per cent);
- Taiwan, with 149 100 visitor arrivals (4 per cent);
- Korea, with 136 500 visitor arrivals (4 per cent);
- Indonesia, with 124 200 visitor arrivals (4 per cent);
- Germany, with 122 800 visitor arrivals (4 per cent); and
- Hong Kong, with 116 500 visitor arrivals (3 per cent).[10]

9 Australian Bureau of Statistics, op. cit., p. 7.

10 ibid.

Reasons for visit

3.13 Almost two-thirds of short term arrivals to Australia come for a holiday. 1994-95 short term arrival statistics show that:

- 2 163 000 were taking a holiday (61 per cent);
- 668 100 were visiting relatives and friends (19 per cent);
- 325 200 were conducting business (9 per cent);
- 88 600 were undertaking education (3 per cent);
- 80 500 were attending a convention or conference (2 per cent);
- 22 700 were undertaking employment (1 per cent); and
- 187 200 arrived for other reasons or did not specify a reason on arrival (5 per cent).[11]

3.14 In its *International Visitor Survey, 1994*, the Bureau of Tourism Research noted a change in the pattern of visitors to Australia over the past five years. It commented:

> Between 1990 and 1994 the composition of visitors coming to Australia has changed, largely due to the strong growth of the markets which predominantly comprise holiday travellers (especially Japan and Other Asia) and the relative decline in the New Zealand, [United Kingdom] and Ireland markets which have a relatively large component of travellers visiting friends and relatives. The proportion of holiday travellers has increased from 56 per cent in 1990 to 63 per cent in 1994. The proportion of visiting friends and relatives has declined from 21 per cent in 1990 to 18 per cent in 1994 . . .[12]

11 ibid., p. 9.

12 Bureau of Tourism Research, *International Visitor Survey, 1994*, pp. 5-6.

Length of stay

3.15 Almost two-thirds of short term visitors arriving in Australia intend to stay for less than two weeks. 1994-95 short term visitor arrival statistics show that on arrival in Australia:

- 2 165 900 stated that they intended to stay for less than 2 weeks (61 per cent);
- 652 800 stated that they intended to stay for between 2 weeks and 1 month (18 per cent);
- 452 200 stated that they intended to stay for between 1 and 3 months (13 per cent);
- 128 300 stated that they intended to stay for between 3 and 6 months (4 percent); and
- 133 100 stated that they intended to stay for between 6 and 12 months (4 per cent).[13]

Impact on the Australian community

3.16 In assessing how the entry of visitors to Australia should be managed, it was important for the Committee to take account of the impact which visitors have on the Australian community.

Benefits to the community

3.17 Visitors to Australia contribute significantly to the Australian economy. As noted in a 1991 paper published by the then Department of the Arts, Sport, the Environment, Tourism and Territories:

> Tourism is one of Australia's biggest and fastest growing industries . . . The industry's growth has generated increased employment opportunities, encouraged substantial private investment and enhanced the nation's balance of payments position at a time when many of our traditional exports face an uncertain future . . . The industry offers outstanding prospects for future growth. It is an industry that has the potential to make a significant contribution to the nation's economic development and help secure our future prosperity.[14]

13 Australian Bureau of Statistics, op. cit., p. 6.

3.18 The tourism industry, including international visitors and domestic travellers, accounts for almost 6 per cent of Gross Domestic Product.[15] Domestic tourism remains the mainstay of tourism business in Australia, accounting for around 70 per cent of total tourism expenditure.[16] In 1994, each international visitor on average spent $1 886 in Australia.[17]

3.19 Tourism is now Australia's largest single foreign exchange earner. In 1993-94, foreign exchange earnings from tourism increased by 15.4 per cent to a record $10.6 billion. This represented 11.7 per cent of Australia's total foreign exchange earnings. The Department of Tourism estimated that foreign exchange earnings from tourism will reach an annual figure of around $22 billion (in 1991-92 dollars) by the year 2000.[18]

3.20 The tourism industry employs around 466 700 Australians, which constitutes 6.1 per cent of the workforce.[19] The Department of Tourism expected that the industry would generate between 210 000 and 270 000 new jobs during the 1990s.[20]

3.21 Alongside the economic benefits of tourism, visitors have increased the Australian population's personal experience of diverse cultures, languages and foods. Visitors have contributed to the development of a more cosmopolitan society in Australia. In addition, by taking back to their own countries positive impressions of Australian culture and society, visitors have helped to boost Australia's international profile and stature.

Costs to the community

3.22 While the benefits of visitors are clear, it is important to recognise that, in certain circumstances, visitors can become a cost to or impact adversely on the community.

14 Department of the Arts, Sport, the Environment, Tourism and Territories, *Towards A National Tourism Strategy, A Background Paper*, Canberra, 1991, cited in Hal, op. cit., p. 138.

15 Evidence, p. S677.

16 Evidence, p. S677.

17 Bureau of Tourism Research, op. cit., p. 15.

18 Evidence, p. S678.

19 Evidence, p. S677.

20 Evidence, p. S678.

3.23 From an immigration perspective, visitors who overstay the period for which they have been granted entry generate immigration compliance costs associated with finding them and securing their departure from Australia. This can include detention costs.

3.24 As at 30 June 1994, there were approximately 69 637 non-citizens in Australia who had overstayed their visas. This included 47 775 non-citizens who entered Australia with visitor visas, an increase of 11.6 per cent from 31 December 1993 but a decrease of 7 per cent from 30 June 1993 (see Table 3.2).

3.25 Subsequent figures were provided by DIEA for 1995. In relation to those more recent statistics, which have been reproduced in Appendices Four and Five, the Committee noted DIEA's advice that those figures are not comparable with the statistics of previous years due to the effect of the bridging visa regime, which was introduced when the *Migration Reform Act 1992* became operational on 1 September 1994. The 1995 statistics only record the number of persons who overstayed their visas and had not presented to or been apprehended by DIEA. They do not record the number of persons who overstayed their visas and were issued with bridging visas. As such, they do not present a clear picture of the total number of non-citizens, including visitors, who have overstayed their visas. For this reason, the Committee's analysis in this report has focused on the 1994 figures.

3.26 In relation to the general overstayer population of 69 637 as at 30 June 1994, the top ten source countries were:

- China, with 8 552 overstayers (12 per cent of overstayers);
- United Kingdom, with 7 086 overstayers (10 per cent);
- United States of America, with 4 981 overstayers (7 per cent);
- Indonesia, with 3 508 overstayers (5 per cent);
- Fiji, with 3 347 overstayers (5 per cent);
- Philippines, with 3 045 overstayers (4 per cent);
- Japan, with 2 758 overstayers (4 per cent);
- Korea, with 2 365 overstayers (3 per cent);
- Malaysia, with 2 224 overstayers (3 per cent); and
- Tonga, with 1 882 overstayers (3 per cent).

3.27 In relation to the 47 775 visitor overstayers as at 30 June 1994, the top ten source countries, were:

- United Kingdom, with 5 054 visitor overstayers (11 percent of visitor overstayers);
- United States of America, with 4 442 visitor overstayers (9 per cent);
- Fiji, with 2 747 visitor overstayers (6 per cent);
- Indonesia, with 2 497 visitor overstayers (5 per cent);
- Philippines, with 2 279 visitor overstayers (5 per cent);
- Japan, with 1 901 visitor overstayers (4 per cent);
- Tonga, with 1 710 visitor overstayers (4 per cent);
- Malaysia, with 1 490 visitor overstayers (3 per cent);
- Korea, with 1 445 visitor overstayers (3 per cent); and
- Germany, with 1 312 visitor overstayers (3 per cent).

3.28 It is also relevant to note the visitor overstay rate, which indicates the number of visitor overstayers from a particular country as a percentage of the total number of visitors who have arrived from that country over a given period (see Table 3.3). As at 30 June 1994, the countries with the highest visitor overstay rate, covering visitor arrivals between October 1992 and September 1993, were:

- Vietnam, 9 per cent;
- Lebanon, 8.3 per cent;
- Tonga, 5.9 per cent;
- Iran, 4.5 per cent;
- Egypt, 4.5 per cent;
- Yugoslavia (so stated), 3.7 per cent;
- Croatia, 3.3 per cent;
- Western Samoa, 3.2 per cent;
- Colombia, 2.6 per cent; and
- Turkey, 2.1 per cent.

TABLE 3.2

ESTIMATE OF OVERSTAYERS BY VISA CATEGORY & COUNTRY OF CITIZENSHIP AS AT 30 JUNE 1994

COUNTRY OF CITIZENSHIP	VISITOR	STUDENT	TEMPORARY RESIDENT	OTHER (ii)	TOTAL
China	1 308	6 561	264	419	8 552
UK	5 054	84	1 506	442	7 086
USA	4 442	24	438	77	4 981
Indonesia	2 497	775	110	126	3 508
Fiji	2 747	337	89	174	3 347
Philippines	2 279	55	121	590	3 045
Japan	1 901	107	599	151	2 758
Korea	1 445	627	153	140	2 365
Malaysia	1 490	591	55	88	2 224
Tonga	1 710	108	27	37	1 882
India	1 003	93	158	205	1 459
Germany	1 312	11	75	56	1 454
France	1 151	8	98	53	1 310
Thailand	950	229	38	28	1 245
Sri Lanka	647	259	46	213	1 165
Yugoslavia (so stated)	888	3	46	174	1 111
Singapore	851	122	28	85	1 086
Lebanon	815	1	14	220	1 050
Hong Kong (iii)	614	347	37	38	1 036
Canada	799	13	169	30	1 011
Pakistan	558	347	37	60	1 002
Netherlands	773	4	88	84	949
Greece	676	4	30	238	948
Vietnam	800	12	9	52	873
Ireland	473	1	354	24	852
Italy	692	6	52	62	812
Stateless (i)	618	83	15	30	746
Taiwan	510	142	27	24	703
Western Samoa	541	13	13	17	584
Iran	427	121	13	12	573
Poland	464	4	27	34	529
Bangladesh	357	101	14	41	513
Sweden	363	3	48	18	432
USSR (so stated)	344	1	59	16	420
Turkey	323	18	22	36	399
Israel	341	8	19	18	386
Switzerland	347	6	18	10	381
South Africa	330	11	21	16	378
Papua New Guinea	248	53	16	24	341
Chile	286	2	11	23	322
Brazil	271	13	14	11	309
Portugal	241	13	8	24	286
Denmark	170	7	20	53	250
Austria	221	0	8	13	242
Spain	186	6	35	14	241
Iraq	158	28	5	16	207
Egypt	177	6	8	15	206
Norway	83	3	7	91	184
Burma	109	32	6	31	178
Hungary	144	1	1	10	156
Peru	146	2	4	4	156
Argentina	110	2	21	6	139
Mauritius	118	4	4	8	134
Ghana	81	30	4	10	125
Other	2 186	257	226	337	3 006
TOTAL	**47775**	**11 699**	**5 335**	**4 828**	**69 637**

(i) Persons travelling on other than a national passport. (ii) Includes transit passengers and those with expired concession or processing entry permits. (iii) Includes British dependant territory citizenship.
VISITORS & STUDENTS SECTION, ENTRY BRANCH, DIEA. September 1994 (0940909)

TABLE 3.3

VISITOR OVERSTAY RATES BY COUNTRY OF CITIZENSHIP (with >500 arrivals) 1.10.92 - 30.9.93 VISITOR ARRIVALS OVERSTAYED AT 30.6.94

COUNTRY	ARRIVALS (Oct 92-Sept 93)	OVERSTAYED (at 30.6.94)	OVERSTAY RATE (at 30.6.94)
Vietnam	3470	312	9.0%
Lebanon	2446	204	8.3%
Tonga	2072	123	5.9%
Iran	1146	52	4.5%
Egypt	876	39	4.5%
Yugoslavia (so stated)	1801	67	3.7%
Croatia	1110	37	3.3%
Western Samoa	1520	48	3.2%
Colombia	621	16	2.6%
Turkey	1694	36	2.1%
Sri Lanka	4111	74	1.8%
Chile	1468	26	1.8%
Poland	2209	38	1.7%
Pakistan	1220	21	1.7%
Philippines	14166	228	1.6%
Russian Federation	1783	24	1.3%
India	9939	102	1.0%
Israel	4710	48	1.0%
Mauritius	1541	16	1.0%
China	14804	144	1.0%
Greece	5387	52	1.0%
Brazil	2403	22	0.9%
Solomon Islands	1384	10	0.7%
Nauru	2705	16	0.6%
Hungary	1828	11	0.6%
Ireland	12034	63	0.5%
Fiji	13173	69	0.5%
Cyprus	851	4	0.5%
Brunei	1071	5	0.5%
Indonesia	43245	191	0.4%
Portugal	2523	11	0.4%
Zimbabwe	1472	6	0.4%
Korea, Rep. of	49552	175	0.4%

COUNTRY	ARRIVALS (Oct 92-Sept 93)	OVERSTAYED (at 30.6.94)	OVERSTAY RATE (at 30.6.94)
Spain	4559	15	0.3%
Stateless (i)	20052	53	0.3%
Vanuatu	1096	3	0.3%
Thailand	32509	85	0.3%
South Africa	18572	45	0.2%
Papua New Guinea	13128	28	0.2%
Italy	28625	61	0.2%
France	47788	99	0.2%
Mexico	1888	4	0.2%
United Kingdom	303387	556	0.2%
Argentina	2684	5	0.2%
Malta	1088	2	0.2%
Saudi Arabia	545	1	0.2%
Malaysia	67047	117	0.2%
Denmark	10381	16	0.2%
Netherlands	26699	41	0.2%
Norway	4466	7	0.2%
Czechoslovakia (so stated)	1337	2	0.1%
Austria	12883	18	0.1%
Canada	46066	63	0.1%
Sweden	16349	22	0.1%
USA	250544	326	0.1%
Germany	100777	110	0.1%
Belgium	4447	5	0.1%
Switzerland	26477	26	0.1%
Hong Kong	32883	32	0.1%
Singapore	108692	82	0.1%
Taiwan	94277	62	0.1%
Finland	4560	3	0.1%
Japan	639391	266	0.0%
Korea, Dem. People's Rep.	657	0	0.0%
Other (ii)	12561	268	2.1%
TOTAL	2146900	4726	0.2%

(i) Persons travelling on other than a national passport.
(ii) Total of countries with less than 500 arrivals.
Data Source: Temporary Entrants Profile Program. TRIPS Database.

VISITORS & STUDENTS SECTION, ENTRY BRANCH, DIEA. August 1994 (940726v).

3.29 DIEA noted that while it is difficult to be precise about the costs of locating and dealing with people who are in Australia unlawfully, the 1993-94 budget for compliance activities was $35.5 million.[21]

3.30 On another immigration related issue, visitors who remain in Australia by seeking permanent residence after arrival may impact on the offshore migration program by reducing the number of places available to persons located overseas. This can cause social disquiet, with claims that persons are using visitor entry to jump the immigration queue. This can be a particularly sensitive issue for persons resident in Australia who are seeking to have family join them.

3.31 Alongside the costs to the community which can arise if visitors overstay or seek to change their status in Australia, there also can be various costs if visitors gain entry to Australia under false pretences or breach the conditions attaching to their entry.

3.32 Visitors who engage in employment, in contravention of the visa condition that they must not work in Australia, may adversely affect the labour market prospects of Australian citizens. In 1974, the then Minister for Labor and Immigration reported to the Parliament that between 30 000 and 50 000 visitors illegally in Australia were engaged in full-time employment.[22] In 1993-94, DIEA reported that of the 16 392 illegal entrants located, some 5 142 or 31 per cent admitted that they had been working.[23] During the inquiry, some concerns also were expressed to the Committee about possible abuse of the working holiday maker arrangements and the impact this was having on the work prospects of Australians. Those concerns are discussed in further detail in Chapter Seven.

3.33 On a separate issue, visitors who have a communicable disease which they do not disclose when they apply for a visa or on entry to Australia may pose a risk to public health. Tuberculosis is recognised as a particular concern within the health criteria which must be satisfied in order to be granted a visa. The Committee received some evidence on the health requirements for visitor entry. That evidence is discussed in Chapter Seven.[24]

3.34 Visitors requiring medical treatment after entry to Australia can become a cost to the community if they do not have sufficient funds or medical insurance to cover the cost of the treatment. In its 1992 report on conditional migrant entry, this Committee's predecessor, the Joint Standing Committee on

21 DIEA, *Fact Sheet 6, People In Australia Unlawfully*, 5 December 1994, p. 2.

22 Hon C. Cameron, Minister for Labor and Immigration, Parliamentary Debates (Hansard), House of Representatives, 30 October 1974, p 3080

23 DIEA, *Fact Sheet 6*, op. cit., p. 2.

24 Immediately prior to the Committee finalising this report, the Government announced certain measures relating to testing and monitoring of tuberculosis The Committee did not have an opportunity to take evidence on these measures and, therefore, the announcement was not taken into account in the Committee's deliberations.

Migration Regulations, noted evidence from the New South Wales Department of Health concerning visitors to Australia who had accessed health services without paying for those services and still owed substantial debts to the health system. In once instance, a visitor owed $68 000 for medical treatment received.[25]

3.35 There also can be social costs if visitors to Australia engage in criminal activity. In two infamous recent cases, visitors to Australia were involved in the kidnapping and removal from Australia of two children and in the murder of a prominent Australian surgeon, Victor Chang.

3.36 In assessing how visitor entry to Australia should be managed in the future, the Committee took account of the significant increases in visitor arrivals to Australia over the past decade, the projected growth in visitor numbers over the next decade, as well as the associated benefits and costs. The outcomes of the Committee's deliberations are detailed in the chapters which follow.

25 Joint Standing Committee on Migration Regulations, *Conditional Migrant Entry, The Health Rules*, Australian Government Publishing Service, Canberra, 1992, p. 95.

Chapter Four

THE REGULATORY FRAMEWORK

Introduction

4.1 The Migration Act and Migration Regulations provide the legislative basis for Australia's visa system. Under the Migration Act, any non-citizen wishing lawfully to enter and stay in Australia must possess a visa.

4.2 According to DIEA, Australia's visa system aims to:

- prevent the entry to Australia of persons who may pose some threat or harm to the Australian community;
- support the managed intake of migrants consistent with government approved programs;
- manage the use of overseas skills to meet short term needs through temporary residence arrangements; and
- facilitate travel by virtually guaranteeing entry to Australia to those people who hold visas, at the end of what is frequently a long and expensive journey.[1]

4.3 A key function of the visa system is to minimise the potential risks to the Australian community arising from the entry of non-citizens. Those risks can be characterised as:

- immigration risks, namely the risk that temporary entrants will overstay, breach visa conditions or use the temporary entry system, including the visitor visa arrangements, as a pretext to avoid the offshore migration queue and, instead, lodge onshore residence applications; and
- risks to public order and safety, namely the risk that persons entering Australia will engage in criminal or subversive activity and thereby endanger the safety and well-being of the Australian community.

4.4 Australia's visitor visa arrangements represent a distinct component of its universal visa system. Visitor visas allow non-citizens to travel to, enter and stay in Australia for the purposes of tourism, visiting family and medical treatment. Prior to 1 November 1995, the visitor visa arrangements also

---

1 Exhibit 1, pp. 2 and 9.

included business visitor visas. From that date, business visitors have been grouped as a separate category of temporary entrants and a separate temporary business visa has been introduced (see paragraphs 4.29 and 4.33).

4.5 According to DIEA, the specific objectives of the visitor program are:

- to 'facilitate and promote visitor entry to Australia of foreign nationals for the purposes of tourism or obtaining medical treatment'; and
- to 'provide a stimulus to the economy and contribute to Australia's economic development, and social and cultural enrichment'.[2]

4.6 In this chapter, the Committee examines the development of Australia's visa system from its early origins to its current legislative provisions. In particular, the Committee focuses on developments in relation to Australia's visitor visa arrangements as a basis for its consideration of the appropriateness and effectiveness of the existing arrangements.

Development of Australia's visa system

4.7 Prior to Federation, there were few controls on entry to Australia. Generally persons could travel to and settle in the Australian colonies without restraint, although restrictions were applied explicitly to non-Europeans, particularly Asian nationals. The lack of any significant entry controls reflected both the desire to attract settlers to Australia as well as the absence of immigration controls throughout the British Commonwealth at that time.

4.8 From Federation, entry to Australia was governed by provisions in the *Immigration Restriction Act 1901*. That Act was designed to exclude from Australia persons who were not of European descent as well as those persons specifically named as prohibited immigrants. Excludable persons included paupers, persons who were suffering mental illness or were a public health risk, and persons who were not of good character or who 'were advocating the overthrow by force or violence of the established government of the Commonwealth or any State'.

4.9 Under the Immigration Restriction Act, there was no requirement for those seeking entry to Australia to have a visa or entry permit. Exclusion or removal generally was effected by the imposition of a dictation test. An officer could selectively require any person who was not a 'constituent member of the

2 DIEA, *Procedures Advice Manual 3*, Issue 10, 25 October 1995, GenGuide H/Text p 3.

Australian community' to write out at the officer's dictation 50 words in a language chosen by the officer.[3]

4.10 While visas were not required under the terms of the Immigration Restriction Act, they nevertheless appear to have been in use as early as 1904. At that time, by gentleman's agreement, Japanese visitors were able to enter Australia for a stay of 12 months without liability to the dictation test providing they had a visa in their passport issued by the British consul at their port of embarkation.[4]

4.11 Visas became a requirement for certain entrants from 1924. The Immigration Act Amendment Act of that year required all persons whose passport was not issued by or on behalf of the United Kingdom Government, or who were not part of a Commonwealth visa waiver arrangement, to have their passport visaed or endorsed by a British consular or passport officer. Persons who were not British subjects and who arrived at or entered Australia in breach of these provisions were prohibited immigrants liable for exclusion or removal.[5] An offshore visa appeared to facilitate but was not set as a requirement for a landing or entry permit.[6]

4.12 The *Migration Act 1958* clarified that 'immigrants' entering Australia required an entry permit.[7] The grant of an entry permit was wholly at the discretion of the Minister.

4.13 Commonwealth citizens of non-European origin, other non-Europeans and Europeans who were not Commonwealth citizens not only required an entry permit to enter Australia but also a visa in order to travel to Australia. By contrast, British subjects of European descent and Irish citizens were granted an entry permit on arrival in Australia but were not required to obtain a visa prior to travel.

3 When first enacted, the Immigration Restriction Act required the dictation test to be given in a European language. This was amended in 1905 to any prescribed language. No language other than a European language ever was prescribed. The dictation test was the subject of a High Court challenge in 1935. In that case, authorities had sought to exclude from Australia a Czech national, Egon Kisch, a linguist and political campaigner, by giving him the dictation test in Scottish Gaelic. The High Court found that the Immigration Restriction Act did not permit the dictation test to be administered in such an arcane language. It was held that the language had to be a speech in common use. The *Migration Act 1958* abolished the dictation test.

4 Chateris, A. H., 'Australian Immigration Laws and their Working', Institute of Pacific Relations Second General Session, July 1927, pp. 3-4.

5 Section 2(f) of the *Immigration Act Amendment Act 47 of 1924*, which amended section 3(fg) of the Immigration Restriction Act.

6 See *An Act to amend the Immigration Act 26 of 1932*, which inserted a new section 3(ge) of the Immigration Restriction Act.

7 An immigrant was any person who was not a constituent member of the Australian community.

4.14 The first significant steps away from a discriminatory entry and immigration policy were taken by the Menzies and Holt Governments in the 1950s and 1960s, followed by measures implemented under the Whitlam Government in the 1970s. Those steps included easier entry for 'part Europeans' (1964), the repeal of domestic legislation discriminating against non-Europeans (1965), easier entry for professional and skilled non-European settlers and temporary entrants (1966), assisted passage privileges (1972) and easier entry arrangements for visitors (1973) (see also paragraphs 5.54-5.61).

4.15 In 1974, the then Prime Minister, the Hon. E. G. Whitlam, MP, announced that, as of 1 January 1975, Australia intended to change 'the longstanding discriminatory practice' whereby Commonwealth citizens of European origin were absolved from the requirement to obtain a visa prior to travel to Australia. He indicated that, in addition to removing a discriminatory practice, the change would provide 'a distinct strengthening of Australia's control of travellers' and also would provide 'a manpower planning control which has been absent in the past'.[8]

4.16 From 1 January 1975, all non-citizens, with the exception of New Zealand citizens and certain exempt designated persons, were required to obtain a visa in order to travel to, enter and stay in Australia. The *Migration Amendment Act 1979* formalised this universal visa requirement. Visas authorised travel to Australia. An entry permit was required for the entry of all non-citizens except certain exempt categories of non-citizens.

4.17 The special exempt status of New Zealand citizens reflected the geographic and historical links between Australia and New Zealand. By reciprocal agreement, Australian and New Zealand nationals did not require visas in order to travel between each other's countries.

4.18 Amendments to the Migration Act in 1989 provided for an entry visa, which was deemed to convert to an entry permit once the holder was permitted to enter Australia. By combining the two functions, the need for separate visas and entry permits was eliminated.

4.19 More recently, with the introduction of the Migration Reform Act on 1 September 1994, the Migration Act now defines the term 'visa' to mean the permission granted to a non-citizen allowing him or her to travel to, enter and remain in Australia. Section 166 of the Migration Act provides that non-citizens arriving in Australia must be cleared for entry. Clearance is effected when a non-citizen shows a clearance officer 'evidence of the person's identity and of a visa that is in effect and is held by the person'. Under the Migration Act,

8 Prime Minister's Press Statement No. 292, 1 August 1974, cited in Evidence, p. S630.

any non-citizen who is in the migration zone[9] and who is not in possession of a valid visa is an unlawful non-citizen and is liable to detention and removal from Australia.

4.20 The Migration Act provides for prescribed classes of visas to be set down in the Migration Regulations, along with the qualifying criteria for and the conditions attaching to those visas. Three prescribed visa classes currently relate to visitors (see paragraphs 4.32-4.34).

4.21 From 1 September 1994, the Migration Act also has provided for special category visas governing the entry to and stay in Australia of New Zealand citizens. As noted previously, before that date New Zealand citizens were not required to possess a visa in order to travel to, enter or stay in Australia. They still are not required to obtain a visa prior to travel to Australia, but are granted a special category visa on arrival, subject to meeting health and character requirements. The required information about health and character is ascertained from the passenger card which each arriving passenger must complete.

4.22 The Migration Act also provides for special purpose visas governing the entry to Australia of certain designated persons, formerly exempt from requiring a visa. Such persons include members of the Royal Family, guests of government, Commonwealth, Status of Forces Agreement and Asia-Pacific forces members, crew of airlines and ships, and certain transit passengers. They are not required to apply for a visa before travelling to or on arrival in Australia, but are deemed to have a special purpose visa for the duration of their stay in Australia. Special purpose visas now also are available for Indonesian citizens visiting the casino on Christmas Island. Persons who produce a valid Indonesian passport, or a passport containing a visa giving the person the right to return to Indonesia, and who carry a valid invitation to the casino which is acceptable to the Minister are deemed to have a visa for entry to and stay on Christmas Island for a maximum of five days.

4.23 While Australia's existing visa system developed in response to the large scale post-war migration, its focus has changed considerably over the past five decades. As noted in Chapter Three, visitors rather than permanent settlers now form the overwhelming proportion of arrivals to Australia. The source countries of arrivals also have diversified. In addition, technology now plays a

9 Subsection 5(1) of the Migration Act defines migration zone to mean the area consisting of the States, the Territories, Australian resource installations and Australian sea installations and, to avoid doubt, includes:

(a) land that is part of a State or Territory at mean low water, and

(b) sea within the limits of both a State or Territory and a port; and

(c) piers, or similar structures, any part of which is connected to such land or to ground under such sea;

but does not include sea within the limits of a State or Territory but not in a port

crucial role in visa processing. As a consequence of each of these developments, Australia's visa system, particularly the visitor visa component of that system, has been transformed.

Visitor visa arrangements

4.24 Visitors comprise one category of temporary entrants to Australia. Broadly speaking, the major categories of temporary entrants are:

- visitors;
- students;
- temporary residents, including working holiday makers, business executives and specialists; and
- from 1 November 1995, temporary business entrants.

4.25 While visitors generally seek entry to Australia for short periods of stay, certain temporary entrants, such as students and business executives, may remain for several years.

4.26 The vast majority of temporary entrants to Australia are visitors. The visitor category comprises non-citizens who travel to Australia for the purposes of either:

- tourism;
- visiting family; or
- prearranged medical treatment.

4.27 Visitors can be characterised by the conditions attaching to their stay. Visitors are not permitted to work (condition 8101) or undertake formal studies (condition 8201).[10] By contrast, temporary residents are permitted to undertake employment. Students can be employed for up to 20 hours per week.

10 Condition 8201 provides that a visitor must not engage in:

- any course leading to the completion of a primary or secondary education program or a degree, diploma, trade certificate or other formal award;
- any other course (other than a language training program) completion of which may be unconditionally credited towards, or accepted as a prerequisite for, a course of studies at a higher educational institution within or outside Australia; or
- any studies or training of more than 3 months' duration.

4.28 While visitor visas are a distinct component of the temporary entrant program, there are some similarities between certain visitor and temporary resident visa classes. The long stay visitor visa, permitting entry for more than three months for close family visitors, is similar to the family relationship visa. That temporary resident visa permits stay of up to 12 months for unmarried people of secondary school age who intend to live with an Australian relative or close family friend and not undertake work or formal studies.

4.29 Additionally, the arrangements for business visitor visas were similar to those for various business, cultural/social and educational temporary resident visas. Indeed, in part because of the alignment between the business visitor visa and many temporary resident visas, the Minister announced on 6 September 1995 that the business visitor sub-classes would be abolished.[11] The announcement was in response to the recommendations of the committee of inquiry into the temporary entry of business people and highly skilled specialists (the Roach Committee). In accordance with the Minister's announcement, a single temporary business visa was introduced on 1 November 1995 for the short term entry of business personnel, with simpler processing and more relevant arrangements for international business people wishing to undertake business in Australia.

4.30 As these changes indicate, and as is evident from the sections of this report which follow, Australia's visitor visa arrangements have been modified over time in response to changing circumstances and pressures. As noted by DIEA:

> Visitor visa arrangements are in a dynamic state. They are not a fixed set of arrangements . . .[12]

4.31 By modifying Australia's visitor visa arrangements, Australia's immigration authorities have sought to achieve an appropriate balance between the need to protect the interests of the Australian community and the desire to encourage visitors to Australia by facilitating visitor entry. As indicated by DIEA:

> It is often suggested that facilitation and border integrity are somehow alternatives and that they are competitors. This is not the case. It is not a matter of facilitation and no integrity. It is not a case of high integrity and no facilitation. The two requirements . . . go hand in hand.[13]

11 Minister for Immigration and Ethnic Affairs, Media Release B84/95, 6 September 1995.

12 Evidence, p. 1080.

13 Evidence, p. S621.

Visitor visa classes

4.32 The Migration Regulations set down various classes of visa for temporary entry to Australia, including various classes of visitor visa. Short stay visitor visas, for visits of up to three months, and long stay visitor visas, for visits of more than three months, are available for persons who wish to travel to Australia for the purposes of:

- tourism, including activities of a recreational nature such as amateur sporting activities, informal study courses, relaxation, sightseeing and travel;[14]
- visiting close family members (parent, spouse, child, brother or sister) who are Australian citizens or permanent residents in Australia;
- undertaking medical treatment and/or consultation; and
- providing emotional and other support to a person undertaking medical treatment and/or consultation.[15]

4.33 Prior to 1 September 1994, there were 11 visitor visa classes. Under the Migration Reform Act, which came into operation from that date, the visitor visa classes were streamlined to provide for 3 visitor visa classes comprising 11 sub-classes. Amendments introduced on 3 April 1995 brought about a further restructuring to provide 3 visitor visa classes, each of which contained 2 sub-classes. In November 1995 this was changed again. Business visitor visas were removed from the visitor visa classes and accommodated within a single temporary entry visa class for short-term business entry. As noted, this was in response to the recommendations of the Roach Committee, which advocated simpler and faster arrangements for the entry of business people to Australia. The focus of this change was on the processes by which business people apply for visas rather than the criteria for grant of such visas.

4.34 Schedule 1 of the Migration Regulations currently lists the visitor visa classes as:

- the long stay visitor visa class, with a tourist long stay sub-class;
- the short stay visitor visa class, with a tourist short stay sub-class; and

---

14 This definition of tourism is contained in the Migration Regulations, regulation 1.03

15 The Migration Regulations also provide for the grant of a medical treatment visitor visa to citizens of Papua New Guinea who live in its Western Province and who are being medically evacuated to a hospital in Queensland.

- the medical treatment visitor visa class, with two sub-classes for short and long stay medical treatment.

Visitor visa criteria

4.35 In order to obtain a visitor visa, non-citizens must satisfy the criteria for the relevant visa class. The criteria, which are listed in Schedule 2 of the Migration Regulations, allow decision makers to approve bona fide visitors and screen out applicants who are not genuine visitors or whose entry is contrary to the public interest. The visitor visa criteria reflect the Parliament's concern to encourage and facilitate the entry of genuine visitors, while at the same time minimising the immigration, public order and public safety risks associated with the entry of certain non-citizens to Australia.

Applicant's bona fides

4.36 In order to be granted a visitor visa, applicants must satisfy the DIEA decision maker that:

- their expressed intention only to visit Australia is genuine;
- they have adequate funds, or access to adequate funds, for personal support during the period of the visit without engaging in work in Australia;
- they intend to comply with any conditions attached to the visa; and
- they have complied substantially with the conditions attached to any visa last held.

4.37 These criteria reflect the Parliament's concern about the immigration risks involved with visitor entry. These include the risks that visitors will overstay their visa periods, will use the visitor visa arrangements simply to avoid the offshore immigration queue and lodge onshore residence applications, or will breach their visa conditions.

4.38 Assessment of visitor bona fides is not always easy. The Migration Regulations do not set down all the indicators of a genuine visitor. Decision makers are required to take account of relevant policy considerations. In this regard, DIEA instructions advise decision makers that policy is not to be applied inflexibly. Consideration is to be given to the circumstances of each individual case.

4.39 Pursuant to section 499 of the Migration Act, the Minister may issue Policy Directions to guide decision makers when assessing visa applications. As at 1 November 1995, two Policy Directions were in force relevant to the assessment of visitor visa applications, namely Policy Direction No. 1 of 1995

and Policy Direction No. 2 of 1995. As a matter of law, decision makers, including tribunals and courts, are obliged to consider such directions. However, the weight to be accorded such directions is a matter for the decision maker or review body.[16]

4.40 In determining whether the expressed intention of the applicant only to visit Australia is genuine, Policy Direction No. 1 of 1995 provides that decision makers are required to consider:

- the level of personal, financial, employment and other commitments which may induce the applicant to return to his or her country of usual residence;
- circumstances which may induce the applicant not to return to his or her usual country of residence, including military service commitments and unemployment;
- the credibility of the applicant in terms of character and conduct;
- the purpose of the applicant's visit, the duration of stay proposed and any other plans which the applicant has made for the visit, relative to the applicant's personal responsibilities and the financial means and earnings and the level of support assistance available to the applicant from person or persons nominated by the applicant;
- information disclosed in the application or otherwise obtained which indicates a reasonable likelihood (beyond mere suspicion) that the applicant will not abide by visa conditions;
- the history of compliance with immigration law by the applicant; and
- the record of the person or persons nominated by the applicant in support of his or her visit to Australia in relation to:
  - reprehensible breach of immigration law;
  - serious default in immigration assurances or undertakings; or
  - sponsoring, nominating or supporting visa applications by a person or persons, other than the applicant, who had overstayed or otherwise breached a condition of their visa/s.

16 *Ali v Minister for Immigration, Local Government and Ethnic Affairs*, 1992, 38 FCR 144.

4.41 In assessing whether applicants have adequate funds to support themselves, Policy Direction No. 2 of 1995 provides that decision makers are required to take into account the capacity of applicants to meet the cost of medical or hospital treatment for any illness or accident which might befall them while in Australia. In this regard, applicants may be required to provide evidence that they are covered by adequate medical, emergency or travel insurance.

4.42 In relation to the applicant's intention to comply with the conditions which are attached to the visitor visa, DIEA's *Procedures Advice Manual 3* advises DIEA officers that this criterion 'generally should be considered satisfied without further enquiry unless there is evidence to the contrary'.[17]

Applicant's intentions

4.43 The key criterion which applicants for visitor visas must satisfy is that their intention is only to visit Australia. In the past, this criterion was interpreted by the Immigration Department as precluding applicants who were 'planning to explore migration possibilities' during their visit as well as applicants who were 'seeking to avoid [offshore] migration, student or temporary resident processing'.[18]

4.44 During the 1980s, increasing numbers of visitors were applying for permanent residence from within Australia. In 1982-83, over 50 per cent of onshore residence applications were lodged by visitors. Between 1985 and 1987, this percentage rose to around 75 per cent, falling to around 40 per cent in 1989.[19] As at 9 February 1990, there was a backlog of 18 795 visitors who had applied for residence from within Australia.[20]

4.45 A particular concern at that time was the number of visitors seeking to become permanent residents on the basis that they had married or were in a de facto relationship with an Australian citizen or permanent resident. As at 9 February 1990, there was a backlog of 7 133 applicants for change of status on the grounds of marriage or de facto relationship.[21] As noted in the 1991 report on

17 DIEA, *Procedures Advice Manual 3*, Issue 10, 25 October 1995, GenGuideH/Text, p. 9

18 Department of Immigration, Local Government and Ethnic Affairs, *Visitor Entry Handbook 1988*, paragraph 4.1.3.

19 Department of Immigration, Local Government and Ethnic Affairs, Regional Office Special Report, *Residence Update*, Issue 5, 1990, September 1990, p 5.

20 ibid., Attachment A.

21 ibid. (the actual number of applicants seeking permanent residence on the basis of being a spouse or de facto spouse of an Australian citizen or permanent resident is likely to have been higher. Such de facto spouse applicants generally were accommodated within the compassionate category rather than the spouse category)

change of status by this Committee's predecessor, the Joint Standing Committee on Migration Regulations, the concerns arose principally because:

- visitors seeking to change their status on the basis of marriage or de facto relationship were not required to satisfy certain public interest criteria applicable to non-citizens applying for permanent residence from overseas, and therefore were not subject to the same degree of 'screening' that enabled Australia to choose the migrants that best served its interests;

- access to the change of status provisions encouraged non-citizens to apply for permanent residence from within Australia in preference to applying from overseas; and

- there was potential for abuse of the system by way of sham marriages and relationships.[22]

4.46 In 1989, in a major change to the immigration system, Australia's immigration law was codified. Under this change, broad discretionary arrangements were replaced with a rule based system, although certain limited discretion remained. The codification was intended to introduce clarity and certainty to the immigration system.

4.47 The 1989 codification reflected the Government's concern about the loss of executive control over the immigration system. In the 1980s, such control had been undermined in the context of judicial review challenges to adverse migration decisions. The codification also reflected the Government's concerns about abuses in the visitor program. The 1989 Migration Regulations were drafted to limit the opportunities for visitors to extend their stay. They provided that extensions of stay could be granted only for the purposes of tourism, to complete business negotiations or agreements, in connection with legal proceedings, or as a result of 'compelling personal reasons'.

4.48 The Migration Regulations also provided limited avenues for visitors to change their status in Australia. Visitors seeking temporary residence permits were required to have 'special occupational or professional skills'. Visitors wanting student permits had to provide 'exceptional reasons'. Visitors could not qualify within Australia for permanent residence on spouse grounds or skilled or economic grounds. These restrictions were directed specifically at visitor applicants.

4.49 In addition, within the onshore residence program, other restrictions were applied to all non-citizens, including visitors, applying for visas from within Australia. The broad, pre-1989 compassionate/humanitarian category was closed

22 Joint Standing Committee on Migration Regulations, *Change of Status on Grounds of Spouse De Facto Relationship* Australian Government Publishing Service, Canberra, 1991 p 3

to all onshore applicants. All applicants, including visitor applicants, seeking preferential family permits were required to show that they qualified as aged parents since arriving in Australia or qualified as aged dependent, remaining, special need or orphan relatives since arriving in Australia and as the result of a death or permanent incapacitation.

4.50 Community concerns about the strict visitor spouse rules prompted the then Minister, Senator the Hon R. Ray, to abolish, as an interim measure, the restriction on visitors acquiring residence on spouse grounds. The onshore spouse regulations also were referred to the National Population Council and the Joint Standing Committee on Migration Regulations for consideration. In response to their suggestions, the Minister announced changes to the onshore spouse rules in January 1991. Those changes provided that visitors could continue to qualify for residence on spouse grounds, but that all spouse applicants within Australia whose relationships were assessed as genuine no longer were to be granted permanent residence immediately, but instead were to be given conditional residence for two years. Permanent residence could be granted after this term of conditional residence if the genuine relationship was continuing or the applicant was widowed or the applicant or applicant's child was a proven victim of domestic violence by the Australian partner. Persons who organised or participated in false marriages and fraudulent relationships for migration purposes were subject to heavy fines or imprisonment or both.

4.51 With a decline in the numbers of visitors applying for residence from within Australia during the 1990s (see Table 4.1), various of the 1989 restrictions on visitors extending stay or changing status have been modified. Progressively from 1991, it became easier for visitors to extend their stay in Australia. Under the current Migration Regulations, visitors may apply for almost any temporary resident visa class[23] and can seek permanent residence on spouse, family or refugee grounds. Visitors still cannot qualify directly for permanent residence on skill grounds, but now can qualify for various temporary resident visas, which in time could be converted to a skilled residence visa. The broader pre-1989 compassionate/ humanitarian residence category remains closed to all applicants.

4.52 While the Migration Regulations presently permit visitors to change status in Australia, this is not encouraged actively by DIEA. The existing criteria provide that visitor visa applicants must satisfy the decision maker that they intend only to visit Australia. In this regard, DIEA's information leaflet 983i entitled *Visiting Australia, General Requirements* advises visitor visa applicants who consider that they may wish to live in Australia permanently that they should consult the nearest Australian mission about migration applications.

23 A notable exception is the working holiday maker visa for which visitors are not able to apply from within Australia. Only those already in possession of a working holiday maker visa are able to apply for an extension of that visa from within Australia.

4.53 If the decision maker considers that the visitor visa applicant intends using the visitor visa as a pretext for staying on in Australia, the application can be refused or granted subject to conditions which prevent the visitor from applying for other visas from within Australia. Certain decision makers have imposed condition 8503 on an applicant's visa where it appeared that the applicant may have been seeking to use the visitor visa as a pretext for remaining in Australia. Condition 8503 provides that the visa holder is not permitted to be granted any substantive visa other than a protection visa while the holder remains in Australia.[24]

TABLE 4.1[25]

Applications for permanent residence by visitors —1989-95

Year	Applications	Persons
1989-90	14 348[1]	17 996
1990-91	7 645	8 958
1991-92	7 608	9 211
1992-93	6 298	7 590
1993-94	5 943	7 366
1994-95	528[2]	543

1 The high number of applications in 1989-90 arose as a result of the Department's change from a policy to a regulatory system on 19 December 1989. In anticipation that the new system would not be as flexible, there was a large increase in the number of applications lodged prior to the commencement of the December 1989 changes.

2 The 1994-95 data represents statistics for July and August only. The Migration Reform Act and Regulation changes, introduced on 1 September 1994, resulted in changes to visa classes. The transitional arrangements which applied to all temporary entrants in Australia at 1 September 1994 resulted in this group being given a new transitional visa class which does not indicate their status on entry to Australia and hence the statistics for this group are incomplete.

24 This visa condition, even if imposed, may not preclude the grant of another visa to the applicant in Australia. For a recent discussion of this matter see *Altintas v Minister for Immigration and Ethnic Affairs*, Full Federal Court (1994) 52 FCR 588, 124 ALR 579.

25 Evidence, p. S1227.

Risk factor

4.54 The visitor visa criteria also require that visitors must abide by their entry conditions, in particular by not undertaking employment or overstaying their authorised period of stay. Since the 1980s, such immigration breaches have been a particular concern of the Parliament.

4.55 The 1989 codification of Australia's immigration law sought to deter overstaying by providing limited scope for overstayers to regularise their unlawful immigration status from within Australia. Additionally, since 1991, the visitor visa criteria have included a risk factor profile to assist decision makers in identifying potential overstayers at the visa application stage. The Migration Regulations require visa applicants who are affected by the risk factor to satisfy decision makers that there is very little likelihood they will overstay their visas.

4.56 The risk factor evolved out of local decision making processes. During the 1980s, overseas posts were encouraged to develop and use local profiles which identified potential overstayers from among visitor visa applicants. Those local profiles were used to facilitate decision making by indicating to decision makers at overseas posts those applicants who required careful scrutiny when decision makers were determining whether an applicant's intention only to visit Australia was genuine. Guidelines on assessment of visitor visa applicants issued by the then Department of Immigration, Local Government and Ethnic Affairs stated:

> Guided by local experience, overseas posts, particularly those with high visitor overstay rates, may develop profiles of doubtful visit cases to use as an indicator, but not the sole determining factor, of bona fides.[26]

4.57 In a series of close family visitor review cases conducted in 1990 and 1991, the IRT trenchantly criticised the use of such local profiles by overseas posts.[27] The IRT determined that those profiles were not 'logically probative'. IRT members proceeded to decide such close family visitor review cases without reference to overseas data or profiles.

26 Department of Immigration, Local Government and Ethnic Affairs, *Visitor Entry Handbook*, Australian Government Publishing Service, Canberra, 1988, paragraph 4.1.2.

27 Re Saulog, V90/00053, Melbourne, 9 November 1990 (Clothier, Bruce and Italiano); Re Canangga, 90/00066S, Adelaide (Radin); Re Estremos, 90/00034S, Adelaide, 13 December 1990 (Radin); Re Daher, V90/00155, Melbourne, 11 April 1991 (Bruce, Watson, Lai).

4.58 On 28 June 1991, apparently in response to the position adopted by the IRT, the Government legislated a risk factor as a criterion for certain visitor visa applicants. The risk factor currently is listed as public interest criterion 4011. Commenting on the decision to legislate risk factors, DIEA stated:

> The risk factors . . . were designed to overcome the then criticism that local profiles of overstayers were discriminatory and unlawful, by replacing them with a transparently objective basis for selecting visitor visa applications which required closer examination.[28]

4.59 An applicant for a visitor visa is affected by the risk factor if:

- during the period of five years immediately preceding the application the applicant has applied for a visa or entry permit for the purpose of permanent residence in Australia; or
- the applicant has one or more relevant characteristics in common with a class of persons shown by statistics prepared from movement records kept by DIEA to be persons who have overstayed the terms of their visas or entry permits in Australia.

4.60 The legislative risk profile is compiled by DIEA's Central Office using onshore movement records of overstayers. The Migration Regulations provide that the profile can comprise any of the following prescribed characteristics of overstayers:

- nationality;
- marital status;
- age;
- sex;
- occupation;
- the class of the visa currently applied for; or
- the place of lodgment or posting of the visa application.

28 Evidence, p 1177

4.61 The present profile limits the characteristics to the nationality, gender and age of overstayers. Commenting on the compilation of the risk factor profile, DIEA stated:

> Over time, statistics provide a guide as to the characteristics of those persons more likely to breach visa conditions. These characteristics may relate to age, gender, nationality . . . These characteristics translate into risk assessments which can be taken into consideration when decisions are made on visitor visa applications.[29]

4.62 As noted, the risk factor profile is prepared on the basis of visitor overstay rates. To determine the visitor overstay rate for nationals of any given country, DIEA determines the total number of visitors who arrived from that country over a 12 month period and calculates the percentage of those arrivals who have overstayed the term of their visas. This calculation generally is undertaken nine months after the end of the relevant 12 month period. By that time, the visa period has expired for the majority of visitors who entered during that 12 month period.[30]

4.63 To determine the risk factor profile, DIEA examines the visitor profiles of those countries whose nationals exhibit an overstay rate of 0.6 per cent or above. That percentage currently is three times the general overstay rate for all visitors to Australia.[31]

4.64 For each country with an overstay rate of 0.6 per cent or above, DIEA sorts the visitors who arrived during a 12 month period by age and gender. DIEA determines the total number of visitor arrivals within a particular age and gender group of the relevant nationality and calculates the percentage of the arrivals in those groups who have overstayed their visas. The risk factor list which then is drawn up by DIEA sets out those age and gender groups within the particular nationality which have 5 per cent or more overstayers or, for age groups with less than 100 arrivals, 5 or more overstayers. DIEA indicated that visitors under the age of 20 are excluded from this calculation because DIEA considers that decisions made by such persons generally are governed by decisions made by parents or other relatives.[32]

29 Evidence, p S622

30 Evidence, pp 1177-1178

31 ibid

32 ibid

TABLE 4.2

RISK FACTOR CHARACTERISTICS

NATIONALITY	SEX	AGE
Brazil	Male	25-29
	Female	25-39
Chile	Male	20-39, 50+
	Female	20+
Colombia	Male	25-29
	Female	30-39, 60+
Croatia	Male	20+
	Female	20-29, 50+
Egypt	Male	25-39, 60+
	Female	30+
Greece	Male	20+
	Female	20-29, 50+
Hungary	Male	20-39, 60+
	Female	20+
India	Male	20-29, 60+
	Female	50+
Iran	Male	30+
	Female	25+
Israel	Male	20-39
	Female	20-39
Lebanon	Male	20+
	Female	20+
Mauritius	Male	20-24, 60+
	Female	20+
Nauru	Male	20-39
	Female	20+

NATIONALITY	SEX	AGE
Pakistan	Male	25-29
	Female	20+
Peoples' Republic of China	Male	60+
	Female	20+
Poland	Male	20+
	Female	20+
Philippines	Male	20+
	Female	20+
Russian Federation	Male	20+
	Female	20+
Samoa	Male	20+
	Female	20+
Solomon Islands	Male	20-29, 50+
	Female	20+
Sri Lanka	Male	60+
	Female	20+
Tonga	Male	20+
	Female	20+
Turkey	Male	20+
	Female	20+
Vietnam	Male	20+
	Female	20+
Yugoslavia (so stated)	Male	20+
	Female	20+

Source: Procedure Advice Manual 3, Issue 8, 6 September 1995, Sch4/4011, pp. 5-6.

4.65 DIEA noted that there currently are 25 countries with an overstay rate of 0.6 per cent and above.[33] These countries appear on the risk factor list (see Table 4.2.). Countries can be removed or placed on the list if their overstay rate changes. DIEA indicated that the most recent update of the risk factor list was undertaken in November 1994 and, prior to that, in 1992.[34] These two lists are published in DIEA's *Procedures Advice Manual*, with the 1992 list in *Procedures Advice Manual II* and the 1994 list in *Procedures Advice Manual 3*. The reader's guide in *Procedures Advice Manual 3* states that the 1994 profile applies to visa applications made on or after 1 September 1994.

4.66 While the Migration Regulations state that applicants are affected by the risk factor if they have 'one or more relevant characteristics in common' with the profiled classes, in fact applicants currently are taken to come within the risk factor only if they exhibit all of the characteristics of the profiled group. By reference to Table 4.2, it is evident that applicants are not risk factor cases if, for example, they are male or Colombian, but rather if they are Colombian males aged between 25 and 29 years. The ambiguity in the Migration Regulations is clarified in the explanatory memorandum to the original risk factor regulation, which in part stated:

> This regulation provides for statistics relating to classes of individuals who have remained in Australia after the expiry of the period they were authorised to remain, to be taken into account in determining whether an individual who has the same characteristics as any one of these classes should be granted a visa.

4.67 Applicants affected by the risk factor are not refused a visitor visa automatically. The Migration Regulations simply provide that in such cases the decision maker is obliged to consider more carefully whether it is likely that the applicant would become an overstayer. Generally, in cases not involving the risk factor, decision makers must be satisfied that it is more likely than not that the applicant will comply with the visa conditions. By contrast, in cases involving the risk factor, decision makers must be satisfied that, having regard to the applicant's circumstances in his or her usual country of residence, there is very little likelihood that the applicant will remain in Australia after the expiry of any period for which the applicant has been authorised to enter. As noted in one IRT case:

> The risk factors themselves are not relevant to whether the applicant will overstay but merely trigger a consideration of that possibility according to the applicant's circumstances in his or her country of usual residence.[35]

4.68 DIEA described the use of risk factors as 'raising the hurdle' for certain persons, who must convince the assessing officer that they will comply with their visas.[36]

4.69 In assessing the likelihood of an applicant remaining in Australia, DIEA officers are advised to consider a range of matters, including but not limited to:

- the strength of the applicant's family ties in his/her country of usual residence;
- the nature of the applicant's financial, personal, employment and other commitments in his/her country of usual residence; and
- any circumstances which may discourage the applicant from returning to his/her country of usual residence when his/her visa ceases to be in effect, for example military service commitments or unemployment.[37]

4.70 During the inquiry, some community organisations criticised the use of the risk factor criteria. Those criticisms are considered in Chapter Seven.

Public interest criteria

4.71 As well as satisfying decision makers that they are genuine in their intentions to visit Australia, visitor visa applicants also must satisfy decision makers that they are not persons who would be likely to engage in criminal activity or who represent a danger to the Australian community. In this regard, visitor visa applicants generally must satisfy public interest criteria 4001, 4002, 4003, 4004 and 4005, which are set down in Schedule 4 of the Migration Regulations. Those criteria seek to ensure that public order and public safety are not compromised by the entry of non-citizens to Australia.

4.72 Public interest criterion 4001 presently requires decision makers to consider the provisions of section 501 of the Migration Act before granting a visa, including a visitor visa. An applicant will satisfy criterion 4001 only if:

- the Minister has decided there is no evidence of anything that might justify refusal of the visa under section 501; or

---

33 Evidence, p. 1178

34 Evidence, p. 1183

35 Re Deng, IRT Decision 324, 23 September 1991.

36 Evidence, p. 1178.

37 DIEA, *Procedures Advice Manual 3*, Issue 8, 6 September 1995, Sch4/4011, p 3

- the Minister has decided that available evidence is insufficient to satisfy the Minister of any matters which are a basis for a visa refusal under section 501; or

- the Minister has decided that, although there is sufficient evidence to justify a visa refusal under section 501, the power of refusal will not be exercised.

4.73 Section 501 of the Migration Act provides that the Minister may refuse to grant a visa to a person, or may cancel a visa that has been granted if the Minister is satisfied that the person would:

- be likely to engage in criminal conduct in Australia;

- vilify a segment of the Australian community;

- incite discord in the Australian community or in a segment of that community; or

- represent a danger to the Australian community or to a segment of that community, whether by way of being liable to become involved in activities that are disruptive to, or violence threatening harm to, that community or segment, or in any other way.

4.74 Section 501 also provides that the Minister may refuse or cancel a visa if, having regard to the person's past criminal conduct or general conduct, the Minister is satisfied that:

- the person is not of good character; or

- the person is not of good character because of the person's association with another person, or with a group or organisation, who or that the Minister has reasonable grounds to believe has been or is involved in criminal conduct.

4.75 As noted, a visitor visa applicant also must satisfy public interest criteria 4002, 4003 and 4004. These criteria are satisfied if:

- the applicant is not assessed by the competent Australian authorities to be directly or indirectly a risk to Australian national security; and

- the applicant is not determined by the Foreign Minister to be a person whose presence in Australia would prejudice relations between Australia and a foreign country; and

- the applicant does not have any outstanding debts to the Commonwealth or, where there are outstanding debts, the Minister is satisfied that appropriate arrangements have been made for their payment.

4.76 As with the other visitor visa criteria, the public interest criteria have been modified several times since 1989.[38] Some of those modifications were introduced in response to two controversial visitor cases. One case, about which the Committee took evidence during the inquiry, involved members of the Hells Angels Motorcycle Club Incorporated. The other case involved Mr David Irving, the so-called 'Holocaust revisionist' historian.

4.77 In the first case, various members of the Hells Angels Motorcycle Club Incorporated were refused visitor visas for their planned visit to Australia to participate in a 'world run' gathering being held in South Australia. The visa applicants were informed by letter from the then Assistant Secretary of the Visitor and Temporary Entry Branch of DIEA that, on available information, DIEA had formed the view that it would be contrary to the public interest for members of the Hells Angels Motorcycle Club to visit Australia. The letter claimed, amongst other reasons, that the Hells Angels Motorcycle Club was an international criminal organisation involved in the manufacture and distribution of illicit drugs, and in prostitution and acts of violence. It was asserted that the planned 'world run' provided an opportunity for members to discuss and organise international criminal actions, and could result in activities disruptive to, or violence threatening harm to, the Australian community.

4.78 The Hells Angels Motorcycle Club sought judicial review of the Minister's conduct in processing the visa applications and of subsequent decisions of the Minister refusing visitor visas to certain members of the Club. At first instance, Olney J held that there had been unreasonable delay in processing 19 undecided tourist visa applications from members of the Club. Olney J also held that past, possible criminal conduct of individual members of the Club in the United States of America and Canada were irrelevant considerations for such visa applications in the absence of other evidence that attendance of overseas members of the Club would be disruptive or cause violence in Australia.[39]

4.79 The Minister's appeal against the Olney J decision to the Full Federal Court was allowed in part. The Full Federal Court held that the determination concerning the likely disruptive behaviour of persons seeking to

---

38 The public interest criteria in Regulation 2(1) were amended six times between December 1989 and November 1992. The 'good character' criterion in Regulation 4(1) was amended twice during that same period.

39 *Hells Angels Motorcycle Club v Hand* (1991) 25 ALD 659

enter or remain in Australia involved a narrow factual assessment. The Court stated:

> The focus is on the likelihood of involvement in activities having a broader impact than that which the activities may have upon an individual victim. A person likely to foment hatred on account of religious or racial differences in the Australian community would quite clearly fall within [the provision], although [the provision], in its terms, is apt to cover other activities. It would, for example, be open to the [Minister] to determine that certain types of criminal activity, including drug-related activities, would have sufficient impact upon the Australian community as a whole or upon a group within that community to fall within [the provision].[40]

4.80 The Federal Court found that DIEA's letter provided insufficient information relevant to a decision on whether members of the Hells Angels Motorcycle Club were likely to be involved in disruptive activities. To the extent that the Minister took account of the letter in deciding to refuse visas to four members of the Club who were considered likely to engage in disruptive activities, those decisions were overturned. However, the Full Federal Court also held that DIEA's letter was relevant to a consideration of the public interest criterion of good character. The Court found that the affiliations and associations of a person are relevant to an assessment of good character, it being commonly said, sometimes unfairly, that persons may be known by the company they keep.[41] The Club's additional grounds of review, namely that the decision constituted an improper exercise of power and that there had been an unreasonable delay in processing undecided cases, were not upheld.

4.81 The visa applications from the members of the Club were refused. DIEA noted that the Minister's decision was in respect of individual visa applicants. It indicated that there was no 'group' decision on Club members nor a 'forecast' decision implying 'all you Hells Angels out there are refused visas to Australia'.[42] As noted, this matter is considered further in Chapter Seven.

4.82 The second case involving the public interest criteria concerned Mr David Irving, who was seeking a business short stay visitor visa to undertake a lecture tour concerning his revisionist theories on the Holocaust. Mr Irving previously had been deported from Canada after overstaying his Canadian visa. This meant that, under the Migration Regulations in effect at that time, he was not of 'good character' and could have been excluded from Australia on that ground. Nevertheless, the visa was refused on the basis that he was a person

40 *Hand v Hells Angels Motorcycle Club* (1991) 25 ALD 667 at 672

41 ibid., at 676

42 Evidence p 1173

'likely to become involved in activities disruptive to, or violence threatening harm to the Australian community or a group within the Australian community'.

4.83 A DIEA minute concerning the case noted that Mr Irving was distinguishable from other controversial visitors in that he was a single individual who did not represent any political group, ethnic community or ideological movement, but instead represented a point of view. In its advice to the Minister, DIEA cautioned that the controversial visitor guidelines are clearly not applicable to Mr Irving's case unless it could be shown that his visit would be likely to encourage violent neo-Nazism.[43]

4.84 Mr Irving sought judicial review of the visa refusal decision. He was unsuccessful at first instance[44] but succeeded on appeal to the Full Federal Court.[45] The issue in the appeal was whether there was evidence on which the Minister could have concluded that Mr Irving was likely to become involved in disruptive or violent activities.

4.85 The Full Federal Court held that there was no evidence before the Minister that any group would be disrupted by Mr Irving's presence. According to the Federal Court, a letter sent by Mr Irving to the Australian Jewish News accusing the 'organised Jewish community' of attempting to suppress free speech by violence would not support a conclusion that his activities would be disruptive to the community. Drummond J noted that the concept of 'disruption' entails the forcible division of the Australian community or some identifiable social group into factions as a result of the activities in question.[46] Disruption may be established only where there is conflict of a kind which has the potential to degenerate into violent behaviour, although actual violence is not required. The term 'disruptive' was held to include vehement confrontation and strife. According to Drummond J, annoyance, distress or demonstrations of opposition would not be sufficient to constitute disruption.[47]

4.86 Lee J stated that before the Minister could determine that Mr Irving fell within the ambit of the criterion, it was necessary for there to be credible material supporting a conclusion that there was a likelihood activities would occur that would be disruptive to the Australian community and that Mr Irving would be involved in those activities. Lee J held that this could not be shown merely by the fact that the opinions held by the person would be likely to inspire supporting or opposing views from community members. Lee J found that the

43 *Irving v Minister for Immigration, Local Government and Ethnic Affairs* (1993) 44 FCR 540 at 563 per Drummond J

44 *Irving v Minister for Immigration, Local Government and Ethnic Affairs* (1993) 115 ALR 125

45 *Irving v Minister for Immigration, Local Government and Ethnic Affairs* (1993) 44 FCR 540.

46 ibid., at 558

47 ibid.

criterion connotes activities designed to divide or rend the cohesiveness of the community, which the community would not be expected to tolerate.[48]

4.87 While Mr Irving was successful in his appeal, he subsequently was refused a visa on character grounds, on the basis that he previously had been deported from Canada.

4.88 Within days of Mr Irving having applied for his visa and following the decision in the Hells Angels Motorcycle Club case, the *Migration (Offences and Undesirable Persons) Amendment Act 1992* was introduced. The then Minister, the Hon. G. Hand, MP, noted that the legislation derived from close scrutiny of the decision making regime for the exclusion of persons of bad character and of persons generally who may represent a danger to the Australian community or a segment of the community. When introducing the legislation to the Parliament, the then Minister stated:

> . . . this Bill will provide a basis in the primary legislation for refusing or cancelling visas or entry permits on the grounds of character. It remains open to prescribe criteria relating to character in the migration regulations, but this would occur only in exceptional circumstances. Under this Bill, the Minister will be able to consider whether a person is of good character by reference to a person's actual criminal conduct, his or her general conduct, or by reference to a person's association with any other person, group or organisation who the Minister has reasonable grounds to believe has been or is involved in criminal conduct. Policy guidance will be developed in due course to assist those decision makers delegated with the power to make decisions under this legislation.[49]

4.89 The changes introduced by this Amendment Act were intended to strengthen the regime of character checking. In order to refuse a visa on the basis of the 'disruptive activities' criterion, it was no longer necessary to show that the applicant would be 'likely' to become involved in such activities, but rather that an applicant would be 'liable' to be involved in such activities. Further, the definition of 'good character' and the provisions for waiver of the good character requirement were clarified.

4.90 The Amendment Act also provided an appeal right to the Administrative Appeals Tribunal in cases where a visa has been refused on character/public interest grounds. In relation to visitor visa applicants, such appeal rights apply only when the visitor applicant refused under section 501 of the Migration Act is invited by a close family member or is applying for a visitor

48 ibid . at 551

49 Parliamentary Debates (Hansard), House of Representatives, 17 December 1992, p. 4121.

visa from within Australia. For close family visitor visa applicants, the Australian relative has standing to bring the review. There is no review right for any visa applicant where the visa is refused or cancelled by the Minister on national interest grounds.[50]

4.91 These amended provisions were tested in litigation when, in 1994, Mr Irving again sought judicial review of further decisions refusing him a business visitor visa. Mr Irving's review application was dismissed by Justice Carr.[51] The information before the Minister was to the effect that:

- in May 1992, Mr Irving had been convicted by the Municipal Court in Munich of defaming the memory of the dead and fined A$30 000;
- a Canadian immigration adjudicator found Mr Irving's supporting evidence in his deportation hearing to be a 'total fabrication'; and
- in the English High Court, Mr Irving was found guilty of contempt of court, and again the Court explicitly disbelieved his evidence.

4.92 Carr J held that all such evidence, in so far as it indicated a lack of respect for the law and a finding of deliberate untruthfulness to a court or tribunal, clearly was capable of being relevant to a decision on good character. In the circumstances, the Minister's refusal decision was found to be reasonable and disclosed no error of law nor breach of procedural fairness.

4.93 The decision to refuse a visa under section 501 is taken by the Minister. Migration Series Instruction No. 55 advises immigration officers that a visa application is to be forwarded to DIEA's Central Office in Canberra for processing if any information of the following kind is available concerning the applicant:

- the holding of extremist views such as belief in the use of violence as a 'legitimate' means of political expression:
- likelihood of the community or part of it being vilified, defamed or spoken evil of:
- having a record of causing law and order problems, for example in the course of addressing public rallies;

50 Section 502 of the Migration Act.

51 *Irving v the Minister for Immigration, Local Government and Ethnic Affairs*, Federal Court, Carr J, No. WAG 63 of 1994, Perth, 31 August 1995, unreported.

- acting in a way likely to be insensitive in a multicultural society, for example advocating within particular ethnic groups the adoption of political, social or religious values well outside those acceptable to Australian society;
- being active in political movements directed towards the non-peaceful overthrow of their own or other governments;
- having planned, participated in, or been active in promoting politically motivated violence or criminal violence and/or being likely to propagate or encourage such action in Australia;
- being liable to provoke an incident in Australia because of the conjunction of the applicant's activities and proposed timing of the applicant's visit with the activities and timing of a visit by another person who may hold opposing views;
- being a war criminal or suspected or accused of war crimes;
- being known to be, or suspected of being, involved in organised crime;
- posing some threat or harm to the Australian community or part of it;
- likelihood of presence in Australia prejudicing Australia's foreign relations;
- claiming to represent a foreign state or government which is not recognised by Australia; or
- any other credible material.

Health criteria

4.94 Visitor visa applicants also are required to satisfy certain health criteria. Public interest criterion 4005 provides that an applicant satisfies the relevant health criteria if the applicant:

- is free from tuberculosis;
- is free from a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community;

- is not a person who has a disease or condition that, during the applicant's proposed period of stay in Australia, would be likely to:
  - result in significant cost to the Australian community in the areas of health care or community services; or
  - prejudice the access of an Australian citizen or permanent resident to health care or community services; and
- is a person from whom a Medical Officer of the Commonwealth has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence for a follow-up medical assessment and has provided such an undertaking.[52]

4.95 The Migration Regulations also provide that in determining whether an applicant for a visitor visa meets the relevant health criteria, the decision maker must seek the opinion of a Medical Officer of the Commonwealth where information is known to DIEA, from the application or otherwise, to the effect that the applicant may not meet any of the health criteria.[53]

4.96 While the health criteria governing the entry of non-citizens can require careful assessment, particularly for long term residents and migrants, visitors generally are required simply to declare that they are free of tuberculosis. Commenting on the reason for the particular emphasis on tuberculosis, the Australian Government Health Service stated that tuberculosis can be spread by 'casual' contact, while other diseases are not spread in such a way.[54]

Visitor visa terms and conditions

4.97 Section 65 of the Migration Act provides that decision makers must grant a visitor visa where they are satisfied that the applicant meets the prescribed criteria for the visa and the grant of the visa is not prevented by any provisions of the Migration Act. If the visa applicant does not satisfy the relevant prescribed criteria or if the grant of a visa is not allowable under any provisions of the Migration Act, for example because the person previously was deported from Australia under the criminal deportation provisions, the visitor visa application is to be refused.

---

52 Certain of these do not need to be satisfied by some medical treatment visitors

53 Regulation 2.25A.

54 Evidence, p. 778.

4.98 When granting a visitor visa, decision makers are required to decide and record:

- the time frame within which the visitor visa must be used once it is granted;
- the number of journeys to Australia which may be made using the visitor visa;
- the period of stay in Australia for which the visitor visa is valid; and
- the conditions which attach to the visitor visa.

Time frame for using visitor visas

4.99 DIEA's *Procedures Advice Manual 3* provides that, generally, the time frame within which a visitor visa must be used is either:

- 12 months from its date of grant; or
- if the applicant's passport is valid for less than those 12 months, the period for which the applicant's passport remains valid.[55]

4.100 A longer time frame of up to four years can be made available, as long as the applicant's passport remains valid during that period. A fee is charged in such cases (see paragraph 5.24).

Number of journeys to Australia

4.101 Visitor visas are granted either as 'multiple re-entry' visas or as 'single entry' visas. Multiple re-entry visitor visas enable the visa holder to travel to Australia any number of times during the period for which the visa is valid for use. Single entry visitor visas enable the visa holder to travel to Australia once only during the period for which the visa is valid for use.

4.102 DIEA's *Procedures Advice Manual 3* states that visitor visas generally should be granted to allow for multiple journeys unless:

- the applicant's circumstances and/or the proposed purpose of the visit (eg. for medical treatment) are such that the decision maker is minded to allow for only one journey; or
- the applicant is 70 years of age or over, in which case applicants should be granted a visa allowing for one journey only.[56]

55 DIEA, *Procedures Advice Manual 3*, Issue 10, 25 October 1995, GenGuideH/Text, p 16.

4.103 DIEA advised that currently around 95 per cent of all visitor visas are issued as multiple re-entry visas. According to DIEA, it issues 'very few single journey only visas'.[57] Submissions on this point are considered in Chapter Seven.

Period of stay in Australia

4.104 For short stay visitor visas, the Migration Regulations specify that the period of stay in Australia is not to exceed three months from the date of each entry to Australia. DIEA's *Procedures Advice Manual 3* states that, as a matter of policy, the period or date specified generally should be the three months maximum stay which is provided for by the Migration Regulations.[58] Accordingly, where non-citizens are granted a short stay visitor visa valid for multiple re-entry for a period of stay of three months, they are permitted to stay in Australia for up to three months each time they enter Australia, until such time as the visa ceases to remain in effect.

4.105 In relation to long stay visitor visas, the Migration Regulations provide that for persons who are affected by the risk factor but nevertheless have been granted a long stay visitor visa, the maximum period of stay is six months, although a lesser period of stay can be applied.[59] For persons not affected by the risk factor, the Migration Regulations provide that the Minister is able to specify the period of stay. In this regard, DIEA's *Procedures Advice Manual 3* indicates that, as a matter of policy, long stay visitor visas generally should allow stay for six months, except for:

- parents who are at least 60 years old (but under 70 years) and whose primary purpose is visiting children in Australia, in which case the period specified generally should allow them to remain in Australia for 12 months;
- a parent or guardian under 70 years of age who seeks the visa in order to care for a child or ward at school, in which case the period specified generally should allow the person to remain in Australia for 11 months (on the basis that this period of stay allows for the completion of an academic year); or
- any applicant who is 70 years of age or over, in which case the period specified should allow the person to remain in Australia for no more than six months.[60]

56 ibid.

57 Evidence, p 1129

58 DIEA, *Procedures Advice Manual 3*, Issue 10, 25 October 1995, GenGuideH/Text, p 17.

59 Regulation 2.06A.

60 DIEA, *Procedures Advice Manual 3*, Issue 10, 25 October 1995, GenGuideH/Text, p 17

4.106 For short stay medical treatment visas, Schedule 2 of the Migration Regulations specifies that the period of stay is not to exceed three months from the date of each entry to Australia. Further, DIEA's *Procedures Advice Manual 3* states that, as a matter of policy, 'the period/date specified should be the 3 months maximum stay provided for by [the Migration Regulations] or the time necessary for treatment, whichever occurs first'.[61]

4.107 For long stay medical treatment visas, DIEA's *Procedures Advice Manual 3* states that 'it is policy that the period/date specified generally should be restricted to the length of time required for the treatment'.[62]

Conditions

4.108 The conditions which may be attached to visas, including visitor visas, are listed in Schedule 8 of the Migration Regulations. The visa criteria prescribe which of the conditions set out in Schedule 8 must or can attach to particular visitor visa subclasses.

4.109 The Migration Regulations provide that any visitor to Australia may not undertake formal study while in Australia, but may undertake non-formal courses of up to three months duration (see also paragraph 4.27).

4.110 The Migration Regulations also provide that persons with visitor visas may not work while in Australia. This condition is in accordance with the criterion that visitors are required to have adequate funds, or access to adequate funds, for personal support during the period of the visit.

4.111 In addition, visitors from certain countries who are aged 16 years of age or over and will be studying in a classroom situation for more than four weeks must pass a chest X-ray examination before commencing that study.[63]

4.112 Having outlined the criteria for and conditions attaching to the grant of visitor visas, the Committee details in the following chapter the administrative processes for granting a visitor visa and allowing entry to Australia.

---

61 ibid

62 ibid, p 18

63 This condition does not apply to visitors from Austria, Belgium, Canada, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, Monaco, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, United Kingdom, United States of America (DIEA, *Procedures Advice Manual 3*, Issue 10, 25 October 1995, GenGuideH/Text, p 12)

Chapter Five

THE ENTRY SYSTEM

Introduction

5.1 Australia's visitor visa arrangements are part of a larger entry system designed to gather and evaluate information about non-citizens prior to their arrival in Australia and at the point of entry. The information collected through the visitor visa arrangements is used by immigration authorities to determine whether non-citizens should be allowed to visit Australia. The visitor visa signals that permission to enter and stay has been obtained prior to arrival in Australia. Upon arrival, the visitor visa is the basis upon which entry to Australia is granted.

5.2 According to DIEA, the linked visa and entry arrangements constitute a unique entry system. DIEA stated:

> No other country can match this achievement. This integrated system enables the pre-collection of personal data on travellers offshore and the capability to screen out character, health and security risks offshore. The integrated system substantially facilitates entry through Australian airports[1] . . . the DIEA visa/entry system has played a key role in the efficient operation of entry points and the levels of service provided to tourists and Australians travelling overseas.[2]

5.3 During the inquiry, the principal issues for consideration by the Committee included the type of information which needs to be collected to operate the entry system efficiently and effectively, the manner in which that information is obtained, and the time when it is collected. In this chapter, the Committee details the existing practice for collection and assessment of information and how that practice has evolved in recent times.

---

1 Evidence, p 1082

2 Evidence, p 1087

Sources of information

5.4 Australia's integrated visa and entry system operates on the basis of information about non-citizens obtained from the following sources:

- passports;
- visa application forms;
- alert lists, which are accessed at various stages during visa processing; and
- passenger cards, which are completed by travellers arriving in Australia and submitted to entry clearance officers for examination, along with travel documents.

Passports

5.5 A passport must accompany all applications for an Australian visitor visa. As passports are the most widely recognised and accepted form of travel document issued by national governments, they are a primary source for confirming a visa applicant's identity, citizenship and right of re-entry to the country of passport issue.[3] In addition, because a visa is placed in a passport to indicate that a person has permission to enter a particular country, the passport provides a ready history of a person's travels, including the person's compliance with visa time limits.

5.6 While the format may vary according to the issuing authority, passports typically contain the following information in relation to the passport holder:

- a unique passport number;
- full name;
- sex;
- date of birth;
- nationality;

3 There are several other forms of travel documents, some of which may be accepted for travel and identity purposes in certain circumstances. Those documents include Documents of Identity, Documents for Travel to Australia, United Nations Laissez Passer and Titre de Voyage.

- country of birth; and
- a photograph.[4]

5.7 Most countries, including Australia, issue passports on a one-person, one-passport basis. Some countries issue a single passport to family groups, covering, for example, a parent and a dependent child or children. In such cases, validity may be restricted. For example, the passport may be valid only when all persons included in the passport are travelling together.

5.8 As part of the visa application process, a passport is examined to ensure its validity for establishing identity and issuing a visa. A passport generally is taken as evidence of a person's citizenship. As noted by one commentator:

> Passports are ordinarily recognised as a matter of comity and without prior arrangements by other members of the international community. It is considered a breach of courtesy by a friendly state to ask the bearer of a valid national passport to present additional evidence of his nationality.[5]

5.9 As evidence of identity, a passport is not acceptable where:

- it is 'bogus', in that it purports to have been but was not issued in respect of the person providing the passport, is counterfeit or has been altered without authority, or was obtained because of a false or misleading statement[6];
- it has been damaged in such a way that important information has been obscured or pages are missing; or
- it does not conform to various other requirements, including the necessity to be current, to be issued by a recognised authority and to have sufficient page space on which to place the visa.[7]

4 Certain countries also include in their passports details such as marital status and a person's distinguishing characteristics, if any

5 Turack, D C 'Selected Aspects of International and Municipal Law Concerning Passports', *William and Mary Law Review*, Vol 12, 1971, p 808

6 Section 97 of the Migration Act

7 There are various other reasons why a passport is unacceptable, including if it is endorsed by the issuing authority to the effect that it is not valid for travel to Australia, has been declared invalid by the issuing authority, will expire before the traveller's initial entry to Australia or is a group passport (such as a passport issued to a sporting team) other than an acceptable family passport

5.10 Visas granted to passport holders are placed in the passport. Currently visas are issued in the form of a visa label affixed in the passport. A passport, with the visa affixed, is required to be presented when the traveller embarks on his/her journey to Australia and on arrival in Australia.

5.11 A significant number of countries have introduced machine-readable passports to facilitate processing of passengers. Immigration officers are able to scan the information from the machine-readable passports directly onto a computer database. This reduces processing times and errors which may arise from information being keyed incorrectly.

5.12 Machine-readable visas also have been introduced and can be placed in both standard and machine-readable passports. A machine-readable visa placed in a standard passport effectively makes such passports machine-readable. Australia has issued machine-readable visa labels since 1987.

5.13 Passport and visa reading machines have been installed at Australian entry control points. The machines are able to 'read' special zones on those passports and visas, obviating the need for keying of information by border control officers. Commenting on this development, DIEA stated:

> All the Australian Customs Service officer, as agent for DIEA, has to do at the entry point is place the passport or visa on a machine which reads the necessary data to call up the entry record and then respond to the immigration directive of *enter* or *refer*. . . Machine readability speeds up data entry and provides greater accuracy of records.[8]

Application forms

5.14 Traditionally, a non-citizen seeking a visa for Australia has had to complete an application form and lodge that form, together with his/her passport, at an Australian mission overseas for assessment by an immigration officer. While the passport provides information on the applicant's identity and travel history, the visa application form has been the principal mechanism for gathering information about the applicant's capacity to meet the requirements for a particular visa and intentions in seeking the visa.

5.15 In recent years, various changes have been made to visitor visa application forms. In the past, those forms typically required visitor applicants to:

- provide details about their personal circumstances, including financial standing, current employment and family commitments;

8 Evidence, pp. 1081-1082

- give their reasons for visiting Australia, including the names and addresses of any relatives they intended to visit;
- provide an itinerary and describe their proposed activities in Australia;
- give details of their previous immigration history; and
- attach a personal passport photograph and a photograph of any accompanying dependents.

5.16 More recently, visitor visa application forms have differentiated between low risk and higher risk applicants. The main offshore visitor visa application forms currently are:

- Form 48;
- Form 48R; and
- Form 48ME.

5.17 Form 48 is the basic application form for a visitor visa. It requires an applicant to provide the following information:

- name;
- date of birth;
- nationality;
- country of birth;
- passport number and expiry date;
- current occupation;
- current address and telephone number;
- purpose of the visit; and
- proposed period of stay in Australia.

5.18 Form 48 also requires the applicant to sign a declaration that he or she:

- will abide by the visa conditions;
- does not suffer from tuberculosis or any other serious illness, condition or disability that is likely to endanger or be a cost to the Australian community;

- has never been convicted of a crime or any offence in any country;
- has not been charged with any offence that is awaiting legal action;
- has never been deported from, refused entry to, or asked to leave any country, including Australia;
- has never had an application for entry to Australia refused, or a visa for Australia cancelled; and
- does not have an outstanding debt to the Australian Government or any public authority in Australia.

5.19 Form 48 is used where the overseas post requires minimal personal details in order to assess the visa application. Visa applicants using Form 48 are not required to provide a photograph. According to DIEA, Form 48 'is the short form for use in high volume, low risk markets'.[9] DIEA also indicated that Form 48 may be used in 'low risk' regions of a given country, noting, for example, that Form 48 is used in metropolitan Indonesia while Form 48R is used in rural Indonesia.[10]

5.20 Form 48R seeks more detailed information from the visa applicant. Along with the information required on Form 48, Form 48R requires applicants to provide:

- additional personal details, including marital status, the names of relatives, friends or contacts to be visited, and employment and financial status;
- details about entry to Australia in the last five years;
- information about health, including whether the applicant has currently or has ever had tuberculosis or any other serious disease, condition or disability; and
- information about character, including whether the applicant has had any criminal convictions.

5.21 Form 48R is used at overseas posts where the risk factor is likely to apply to visitor visa applicants.[11] Visa applicants using Form 48R are required to provide a photograph.

---

9 Evidence, p. 1118.

10 Evidence, p. 1119.

11 Evidence, p. 1118.

5.22 Form 48ME is used by all applicants for a medical treatment visitor visa.

5.23 Form 601 is the only onshore visitor visa application form. It is used for all visitor visa applications made in Australia. Most onshore visitor visa applications are made by visitors who wish to extend their period of stay. The onshore application and assessment process essentially is designed to verify continued bona fides and continued access to adequate means of support.

5.24 Persons applying for a short stay visitor visa on Form 48, Form 48R or Form 48ME, for periods of stay of 3 months or less, are not required to pay a fee where the visa will remain in effect for less than 12 months. A fee of $35 applies where the applicant seeks a short stay visa which remains in effect for more than 12 months or where the applicant seeks a long stay visitor visa, for periods of stay of more than 3 months. Persons applying onshore for a visitor visa on Form 601 must pay a fee of $140. Generally, the visa issued will be a multiple re-entry visa.

5.25 Commenting on the fee differential between offshore and onshore visas, DIEA indicated that the onshore fee is geared to streamlining visa processes. DIEA stated:

> We say, 'If your intent is to come to Australia for that time, signal that intent and get the appropriate visa because our onshore operation is more and more not geared to providing the follow-up service of visa extensions. Visa extensions are an expensive business for us, and that is reflected in the [onshore] fees . . .' So our encouragement to people is plan their trip, plan the sort of visa they want, and do it offshore if they can because if they do it onshore, it is expensive—and we apologise for that.[12]

Alert lists

5.26 An enduring feature of visa processing has been the use of specialised computer databases, known as alert lists, to inform immigration officers of the existence of objective information about an individual or a travel document which is to be considered before a decision is made in relation to a visa application.

5.27 In broad terms, the information contained on alert lists relates to the capacity of an applicant to satisfy those public interest criteria which concern character. Major sources of alert list information include DIEA, Australian and international law enforcement agencies and local immigration sources.

---

12 Evidence, p. 1234.

5.28 The warning lists which are relevant to Australian visa processing are the Movements Alert List (MAL) and post-specific local warning lists.[13] Each of these lists has particular attributes and capabilities, as outlined below.

Movements Alert List

5.29 MAL is DIEA's principal intelligence information system. It is held on computer at all Australian overseas diplomatic missions. MAL is compiled and updated electronically by DIEA's Central Office in Canberra.

5.30 MAL records information relevant to an assessment of whether visa applicants meet public interest criteria, including character requirements. MAL listings are compiled on the basis of specific criteria which are outlined in detail in confidential DIEA instructions. Those criteria include references to persons who have been found to have been involved in immigration malpractice and persons who have criminal records.

5.31 The bulk of the information contained on MAL is provided by DIEA, although law enforcement agencies, such as the Australian Federal Police (AFP) and Interpol, and national security agencies also provide some information. While security agencies may be a source of a MAL listing, MAL does not have a national security classification and therefore cannot contain classified information.

5.32 For the purposes of overseas visa processing, MAL is comprised of two distinct lists, known as:

- the Person Alert List, which contains the names and aliases of individuals; and
- the Document Alert List, which contains information in relation to lost, stolen and bogus travel documents and Australian visas.

5.33 DIEA indicated that the Person Alert List presently contains approximately 78 000 names. Approximately 70 000 of those names are immigration-related entries provided by DIEA and approximately 8 000 are entries provided by security agencies and law enforcement agencies. The Document Alert List presently contains approximately 400 000 entries.[14]

13 During the inquiry, the meaning of the acronym MAL was changed from the Migrant Alert List to the Movements Alert List. DIEA indicated that this change was introduced to reflect the fact that MAL contains entries for the full range of movements into Australia, not just migration.

14 Evidence, p S1199

5.34 MAL computer checks are undertaken when a visa application is processed and when visa data is loaded to the Travel and Immigration Processing System (TRIPS) in DIEA's Central Office (see also paragraph 5.69). Where a MAL listing is revealed, further investigation is required before a visa can be issued or before a decision is made at the entry point.

5.35 The listing on MAL shows in coded form the reason for the listing as well as the action to be taken. In some cases, the post may be required to seek more detailed information about the listing from DIEA's Central Office before assessing the application further.

5.36 Existence of a MAL listing in relation to a visa applicant is not a sufficient reason to refuse the visa application. Rather, decision makers must have regard to a MAL listing and then decide whether the applicant meets the relevant prescribed criteria and other legislative requirements which are set out in the Migration Act and Regulations. In this regard, a Deputy Secretary of DIEA stated:

> There is no point in putting a person on MAL because . . . for example . . . I have heard . . . that he is involved in drugs. We have to be able to make a decision to refuse a visa or cancel a visa on the basis of that information . . . A person would need to be notified that they are rejected for a visit to Australia on the basis of character, health or public interest grounds, not because they are on MAL . . . what is there has to be used in a lawful way and has to be collected in that way.[15]

5.37 During the inquiry, DIEA noted that it is planning various enhancements to MAL. In particular, DIEA is seeking to place greater focus on persons who are a character and security concern, including an increase in the number of names on the database and improved name-matching techniques and procedures for recording information about persons of interest to law enforcement agencies. Those enhancements are discussed further in Chapter Seven.

Local warning lists

5.38 Post-specific local warning lists operate along similar lines to MAL, with three main differences.

5.39 Unlike MAL, which is a worldwide alert list, local warning lists contain information which is specific to a particular overseas post. The post compiles this information by drawing on local immigration and community

15 Evidence, p. 1158 and p 1164

sources, including local press sources, as well as some sources in Australia and the general public.

5.40 A local warning list is accessible only at the post at which it is maintained and cannot be accessed by other posts. If an applicant who appears on the local warning list of one post applies for a visa at another post, the second post will have no record of that listing. As such, local warning lists currently have limited usefulness as a screening tool.

5.41 Local warning lists are used to record information about persons who, for example, may be involved in a migration racket in the area and should receive special attention if they apply for a visa. Alternatively, an individual may be placed on a local warning list if a police liaison officer at a post receives particular information that suggests a need to list that individual. This type of information presently has not been accorded such significance as to require a MAL listing.

5.42 During the inquiry, DIEA advised that local warning lists are being restructured as part of the enhancements planned for MAL. This is discussed further in Chapter Seven.

Passenger cards

5.43 The passenger card system was introduced in January 1965. It provides a means for gathering and recording information about the movements of all citizens and non-citizens travelling into and out of Australia.

5.44 All citizens and non-citizens must complete an incoming passenger card when arriving in Australia and an outgoing passenger card when departing Australia. The information provided on the incoming passenger card is considered in conjunction with the information in the traveller's passport and the visa data on the entry database to determine whether the passenger should be cleared for entry. The information on the passenger card relating to arrivals and departures of citizens and non-citizens also is used by other Commonwealth agencies, in particular Customs and the Australian Taxation Office.

5.45 The incoming passenger card requires passengers to provide the following information:

- name;
- nationality;
- sex;
- country of birth;
- date of birth;

- passport number;
- marital status, under the headings never married, married, widowed, divorced, separated but not divorced, and common law/de facto;
- usual occupation;
- flight number;
- intended address in Australia;
- country where boarded this flight/ship; and
- the traveller's principal purpose for coming to Australia, categorised under the headings 'migrating permanently to Australia', 'visitor or temporary entrant' and 'returning resident to Australia'.

5.46 In addition, the incoming passenger card seeks information concerning the health and character of non-citizens. It requires that non-citizens answer 'Yes', 'No' or 'No change since your last Australian visa application' in relation to the following questions:

> Do you currently suffer from tuberculosis?
>
> Have you any criminal conviction/s for which the sentence/s (whether served or not) totalled 12 months imprisonment or more?
>
> Have you ever been found guilty, or acquitted, of committing a crime because you were of unsound mind?
>
> Have you ever been deported, removed or excluded from any country (including Australia)?
>
> Do you owe $1000 or more to the Australian Government?

5.47 From 1 November 1995, the passenger card was modified so that only the first two questions are asked of non-citizens.

5.48 A non-citizen who answers 'Yes' to any of the above questions will be referred to an immigration inspector for further assessment. According to DIEA, these questions essentially are a formality, as the health and character of most non-citizens will not have changed since they lodged their visa applications. For New Zealand citizens, who do not require a visa to travel to Australia, the answers to these questions determine whether they meet the requirements for grant of a special category visa. New Zealand citizens who do not meet health and character requirements are refused a special category visa but may be considered for a border visa if appropriate.

5.49 The incoming passenger card allows entry clearance officers to make a final check of passenger details. In most cases, the information contained on the passenger card will accord with the data provided in the visa application and entered on the visa database at the time of visa issue. Where there is a conflict between the information on the passenger card and that on the database, the person is referred to an immigration inspector for further assessment as to whether entry should be allowed.

Information processing

5.50 Over the past two decades, there have been considerable changes in the methods used to obtain and evaluate information about visitor visa applicants.

5.51 Until recently, all visitor visa applicants were required to lodge applications at Australian overseas missions including Australian embassies, high commissions, consulates and trade missions.[16] Visitor visa applicants typically were required to present for an interview at the mission. If the visas were approved, visa applicants returned to the mission to collect their visaed passports.

5.52 This paper-based and personal contact processing has been replaced progressively by computer-based processing. The aim has been to streamline visa processing arrangements so as to make, in the words of DIEA, the visa application process as 'invisible' as possible. Commenting on this shift in emphasis, DIEA stated:

> DIEA operations in the past have been driven by administrative disciplines. With an emphasis on forms, processes and an expectation of the client coming to the organisation for the service they sought. This has perhaps reflected that our core business for some 40 years was permanent migration to Australia.
>
> The emergence of international tourism to Australia along with the internationalising of commerce and industry has changed that for ever. We have moved to embrace that change. We have therefore gone through, and continue to go through, fairly radical revision of the way we conduct our business.[17]

16 DIEA indicated that in some isolated cases, the official missions of other countries, such as British missions, have acted as agents for Australian immigration authorities (Evidence, p. S605)

17 Evidence, pp 1079-1080.

5.53 In the section which follows, the Committee traces some of the developments leading to the existing processing arrangements.

Easy visa system

5.54 An early attempt to streamline visitor visa processing, often referred to as the easy visa system, was introduced in September 1973 by the then Minister for Immigration, the Hon. A. Grassby, MP. The revised visitor visa arrangements were implemented following calls for the abolition of all visas for short term visits. Those calls had come from State tourism ministers, organisations such as the Australian Tourist Commission, the Australian Federation of Travel Agents and the Pacific Basin Economic Council, as well as the Coombs task force. The Coombs task force had proposed the following:

> Abolish visa requirements for visits of three months or less for tourists from Australia's three major sources of international visas, as a test program. Substitute in their place a requirement that the visitor submit to the nearest Australian Embassy or Consulate a form to be made available at travel bureaux and booking offices which requires details of intended address in Australia and photostat evidence that a return ticket has been purchased. The Consulate or Embassy could make further contact with the applicant only if his visit required further checks. The visitor would not be able to alter his status whilst in Australia.[18]

5.55 While this proposal from the Coombs task force was not implemented, the compromise solution of an easy visa system provided an expedited and simpler application process for those visitors who were required to obtain a visa in order to travel to Australia. Under the revised arrangements, streamlined application procedures enabled visitors to obtain visas simply by producing a pre-paid return ticket, a valid passport, a declaration that they had enough funds to support their stay, and a written promise not to undertake employment while in Australia. The application form under the revised system required visitors to sign the following declaration:

> I am not suffering from any dangerous contagious disease such as tuberculosis nor have I suffered any mental illness.
>
> I do not have a criminal record.

18 Report of the Task Force Appointed by the Prime Minister the Honourable E G Whitlam, QC, MP. *Review of the Continuing Expenditure Policies of the Previous Government*. Australian Government Publishing Service Canberra. 1973. p 101

I have sufficient funds to support my stay in Australia for the period of the visit.

I do not intend to settle in Australia.

The particulars provided by me in this application are true in every detail.

5.56 Personal contact between applicants and immigration officials was reduced and the existing process of interviewing visa applicants was replaced. As noted by the then Minister:

> . . . time consuming interviews to establish bona fides have been replaced in favour of self categorisation by applicants.[19]

5.57 The easy visa system was introduced on a one year trial basis. Under the new system, between 1 September 1973 and 28 February 1974, 94 492 visitor visas were issued at Australian posts abroad, which was an increase of 8 767 over the corresponding period in 1972-73. The notable increases in visitor visas issued were in:

- Fiji, with 3 402 additional visitor visas issued;
- Japan, with 2 272 additional visitor visas issued;
- South Africa, with 1 339 additional visitor visas issued; and
- Italy, with 1 159 additional visitor visas issued.[20]

5.58 Difficulties with the system became evident after the first six months of operation. Minister Grassby reported to the Parliament on 3 April 1974 that deliberate abuses were being planned in Fiji. He also advised that in Colombia three travel agencies were engaged in dishonest practices in connection with the visas and, in two further instances, a major international airline was used as a cover for such practices. As a consequence, the system was suspended in Fiji and Colombia. The Minister noted that this had caused some consternation in Fiji, with the Fijian Prime Minister pleading for the restoration of the system.[21]

5.59 During a parliamentary debate on the easy visa system, references were made to additional problems with the system. It was argued that the system raised expectations in a number of countries which could not be fulfilled. Further, while application procedures had been simplified in order to facilitate

19 Hon. A. Grassby, Minister for Immigration, Parliamentary Debates (Hansard), House of Representatives, 3 April 1974, p 910

20 ibid.

21 ibid, pp. 910-911

visa issue, the simplified procedures had in fact led to congestion. It was claimed, for example, that in one country 10 000 people were reported to have approached the Australian embassy to inquire about the possibility of visiting or entering Australia. It also was noted that hundreds of applications a day were being made in the Philippines.[22] A further claim was that there had been an alarming increase in persons before the courts in New South Wales who had entered Australia under the easy visa system and were facing criminal charges. It also was alleged, on the basis of media reports, that a number of supposed terrorists had been able to enter Australia under the easy visa system and were operating somewhere on the Great Barrier Reef.[23]

5.60 The easy visa system was abandoned at the end of its first year of operation. The then Minister for Labor and Immigration, the Hon. C. Cameron, MP, stated:

> It has become increasingly clear that many . . . have abused the open door hospitality extended to them . . . Many have come to Australia with the sole intention of seeking employment and/or permanent residence by any means at their disposal despite the undertakings they gave in their simplified visa applications.[24]

5.61 The then Minister noted that between 30 000 and 50 000 people illegally in Australia were occupying full-time employment. He commented:

> It is an invidious situation when an alleged tourist to this country takes a job which is thereby denied to a legitimate migrant or to an Australian citizen.[25]

Master Plan for Passenger Processing

5.62 Following the abandonment of the easy visa system, the previous arrangements for assessing and processing of visitor visa applications were restored. However, the emergence of Australia as a major tourism destination during the 1980s made it increasingly clear that new strategies were required if the growing demand for visitor visas was to be managed in an efficient and effective manner.

22 Hon M Fraser, MP, Parliamentary Debates (Hansard), House of Representatives, 3 April 1974, p 911

23 Rt Hon. I. Sinclair, MP, Parliamentary Debates (Hansard), House of Representatives, 3 April 1974, p 914.

24 Parliamentary Debates (Hansard), House of Representatives, 30 October 1974, p 3080

25 ibid

5.63 In response to these pressures, in August 1988 Cabinet adopted the Master Plan for Passenger Processing as the key strategy for facilitating tourism and maintaining border integrity. The Master Plan focused on:

- increased use of computer-based technology in administering the visa system;
- development of links between the visa and entry systems in order to facilitate entry clearance processes; and
- streamlining of administrative mechanisms for processing visa applications.

Computerisation in visa processing

5.64 Since the adoption of the Master Plan in 1988, visa processing increasingly has incorporated the use of computer technology. In particular, the Immigration Records and Information System (IRIS) has been a major instrument for reducing visa processing times and enhancing case management procedures. IRIS was installed progressively at overseas posts from mid-1987, in high volume tourist countries in the first instance. An upgraded version of the system, IRIS II, was installed progressively at posts from May 1989.

5.65 IRIS performs the following functions in relation to visa processing:

- creates records of visa applications;
- checks visa applicants against MAL and local warning lists;
- records the details of each visa issued;
- produces machine-readable visa labels;
- produces standardised correspondence; and
- assists with case management, monitoring workflows and preparing monthly statistical reports.

5.66 In addition, IRIS enables the transmission of visa data to Australia from overseas posts on a daily basis. This facilitates checking procedures at entry control points in Australia. The links between IRIS and onshore entry procedures are examined in further detail in the following section.

5.67 According to DIEA, computerisation has led to various efficiency improvements including:

- productivity gains of the order of 40 per cent, with significantly higher productivity in high volume/low risk posts;

- improved levels of service to clients, with substantial reduction in the time taken to process applications and the capacity to deal with visitor visa applications across the counter in many instances;
- computerised warning list checking, with reduced scope for error from human fatigue and reduced potential for incorrect visa issue; and
- facilitation of rapid processing of applications received by mail or courier.[26]

Links between the visa and entry systems

5.68 A major outcome of the Master Plan has been the integration of Australia's visa and entry systems to reduce passenger clearance times at Australia's international airports. The integration of the two systems operates as follows:

- visa data which is collected overseas by IRIS is transmitted on a daily basis to Australia;
- that information can then be accessed via the entry system operating at Australia's international airports;
- when travellers arrive in Australia, entry clearance officers input the visa number to the entry system using passport/visa-reading technology to retrieve the record contained on the entry system, which shows if the passenger is recorded against the warning list; and
- the entry system then indicates whether the traveller should be permitted to enter Australia or referred to an immigration inspector for further assessment. DIEA indicated that approximately 90 officers currently handle these referrals Australia-wide.

5.69 These streamlined procedures are made possible by a computer system known as the Travel and Immigration Processing System (TRIPS), which was installed at Australia's international airports in 1991. TRIPS integrates offshore visa processes with onshore entry and exit processes at Australia's international airports. It allows for regular updating of warning lists to ensure identification of cases where an alert listing has come into existence following visa issue. The system is linked to the Australian and New Zealand passport databases, warning alert lists, DIEA regional offices in Australia and Customs

---

26 Evidence, p S604

entry point terminals at Australian international airports. It is maintained by DIEA in Canberra.

5.70 TRIPS also allows entry clearance officers to check travellers against a second alert list known as the Passenger Automated Selection System (PASS), which is administered and operated by Customs. It contains the names and aliases of people who are of interest to Australian law enforcement agencies. Where a traveller triggers a match on PASS, action may include interception, surveillance or interview.[27]

5.71 For most travellers, the entry clearance process is a formality. There usually is no need for immigration clearance officers to seek further information from passengers. However, a small number of travellers are referred to immigration inspectors as a result of the checking procedures. If an immigration inspector decides to deny the referred traveller entry to Australia, that passenger waits in transit or detention pending his or her return to the point of departure. In 1993-94, a total of 408 travellers were refused entry to Australia at the entry control point.[28]

5.72 DIEA emphasised that, in the context of a dramatic growth in visitor arrival numbers, the computer links between the visa and entry processes have contributed significantly to the development of efficient entry clearance procedures. DIEA stated:

> The productivity at Australian international airports resulting from the integrated visa/entry system has been significant. Traffic through Sydney terminal grew from 2.4 million in 1983 to 5.2 million in 1993. Yet better levels of service were delivered in 1993 in what was essentially a 25 year old terminal built to handle size 707 aircraft . . . it means processing can be fast for arriving international passengers. 95 per cent [of passengers pass] through entry control processes within 30 minutes.[29]

Streamlined visa processing

5.73 Traditional visa processing arrangements were predicated on the assumption that immigration officers would have direct personal contact with visa applicants before their visas were granted. Interviews provided an opportunity to assess the bona fides of applicants. With the significant increase in the numbers of persons applying for visitor visas and the move towards computer based processing, personal contact between the applicant and the

27 Evidence, p. S565.

28 Evidence, p. S1205.

29 Evidence, pp 1082-1083.

assessing officer has been eliminated in a significant proportion of cases. As noted by DIEA:

> In any large volume post today, the number of people whom we would have a chance to eyeball and make some intuitive judgement about as to their suitability for a visa would be . . . probably somewhere around 20 per cent of the total visa application population. Most people now transact business with us by mail, or through a travel agency which couriers applications to us to be dealt with in bulk.[30]

5.74 This development has necessitated the adoption of risk management techniques which seek to balance efficient visa processing with adequate safeguards. Essentially, through its risk management strategies, DIEA recognises that, with an increasing volume of visitor visa applicants, detailed checking of all applicants is not possible. Instead, more detailed checking is reserved for those applicants whose entry is more likely to pose a risk to the Australian community or lead to immigration breaches.

5.75 In line with this risk management approach, immigration officials increasingly have been encouraged to assess applications on the basis of the information provided in application forms. In this regard, application forms have been tailored to deliver the exact information which is required to decide an application. In relation to Form 48R, for example, DIEA stated that the layout of the form 'more and more leads applicants through the issues which we are interested in'.[31]

5.76 DIEA instructions advise decision makers that they should seek further information from a visa applicant only where the information before the decision maker raises doubts about the applicant's ability to satisfy prescribed criteria. Where doubts arise, decision makers are able to seek further documentary evidence from the applicant relevant to those doubts.

5.77 The Minister's Policy Directions also emphasise the need for decision makers to balance assessment procedures against operational constraints and the requirement to facilitate visitor visa delivery. The Policy Directions state:

> As a general rule, the need for inquiries, investigations and deliberations by decision makers must be balanced having regard to the Government's commitment to quick response on visitor applications and resources available to meet that commitment.[32]

30 Evidence, pp 1150-1151

31 Evidence, p 1181

32 Minister's Policy Direction No 1 and No 2 of 1995

5.78 Commenting on the need to balance efficient processing with adequate safeguards, DIEA stated:

> Where assessments place people in a low risk category, it does not make sense to apply the same rigour of examination of visitor visa applications as where the risk is assessed as higher . . . there are real differences in the way in which the visa is delivered, and can potentially be delivered, between assessed low risk and high risk applicants.[33]

Agency arrangements

5.79 Building on the initiatives of the Master Plan, DIEA also has initiated arrangements under which travel agents have become involved in visitor visa processing on an official basis. The first so-called 'agency arrangement' was implemented in Japan in November 1988, under an umbrella agreement with Japan's peak travel industry body, the Japanese Association of Travel Agents. Under the arrangement, travel agent members of the Association generating a significant volume of travel to Australia were able to enter into agreements to assist in the delivery of visitor visas to travellers. Smaller scale arrangements also have been implemented in Qantas offices in the United Kingdom and the United States.

5.80 Agency arrangements decentralised visitor visa processing by allowing travellers to complete their visa arrangements at their travel agent's office without the need to approach an Australian mission. Under the arrangements, participating travel agents help to assemble visitor visa applications and submit them to the relevant Australian mission, generally via designated collection centres or 'hubs'.[34] Decision making remains the responsibility of Australian immigration officials. Following visa approval, the agent places the visa label in the traveller's passport and returns it to the traveller.

5.81 More recently, major travel agents in Tokyo and Osaka have been linked to IRIS II, which permits the electronic lodgment of visitor visa applications by agents and the electronic approval of those applications by immigration officers. Where the application is approved, visa printers in the agent's office produce the visa label, which the agent then places in the traveller's passport.

---

33 Evidence, p. S623

34 Evidence, p. 1221. For example, DIEA indicated that JTB, one of Japan's largest travel organisations, has used a 'hub' to collate applications collected in all its Tokyo branches, and then delivers those applications in bulk to the embassy

5.82 Twenty-three Japanese travel agencies currently participate in agency arrangements. In 1993-94, 47 per cent of all visitor visas issued in Japan were issued via agency arrangements. DIEA estimated that following the establishment in May 1995 of an additional arrangement with QTI, the Qantas travel agency in Japan, approximately 60 per cent of the visitor visa workload in Japan would be covered by agency arrangements.[35]

5.83 While noting the success of agency arrangements in Japan to date, DIEA indicated that further modifications are required if future demand for visitor visas is to be dealt with efficiently and effectively. In particular, DIEA acknowledged the need to consider options for increasing the number of visa issuing points and further modifying and streamlining traditional visa processes. DIEA stated:

> In very simplistic terms, the efficient and timely delivery of visas in the future is an issue of increased access to visas; that is, the number of 'product outlets' and the means of 'distribution' of visas to those outlets. Visa outlets, and visa application processes need to be widely available, easily accessible and an 'invisible' part of the process of arranging travel. The success of agency arrangements developed for the Japanese market does provide the basis for a dramatic and challenging re-think of the visa issuance process.[36]

5.84 On 29 August 1995, the Minister for Immigration and Ethnic Affairs and the Minister for Tourism announced in a joint statement the establishment of new agency arrangements for the delivery of short stay visitor visas. The Ministers noted that since June 1995, new agency arrangements had been established in Hong Kong (3 agents), Malaysia (8 agents), Singapore (9 agents), South Korea (6 agents), the United Kingdom (8 agents) and Slovenia.[37] DIEA estimated that the implementation of agency arrangements in those countries would result in 20 to 35 per cent coverage of the total visitor workload at the relevant posts.[38] The Ministers also announced that in phase two of the agency expansion, planned for September and October 1995, agency arrangements would be established in Denmark, France, Germany, Greece, Indonesia, Italy, Netherlands, North America and Tahiti. The Ministers also advised that the

---

35 Evidence, p. 1231.

36 Evidence, p. S608.

37 Joint Statement by Minister for Tourism, Michael Lee and Minister for Immigration and Ethnic Affairs, Senator Nick Bolkus, 'New Visa Arrangements Make It Easier For Tourists', B78/95, 29 August 1995, Canberra.

38 Evidence, p. S890.

establishment of further agency arrangements for other centres in Europe and South Africa was planned later in 1995.[39]

Electronic travel authority

5.85 In implementing expanded agency arrangements, DIEA acknowledged that visa processing arrangements must be simplified further if the projected future growth in visitors to Australia is to be managed effectively. According to DIEA, future arrangements must reflect the reality that the majority of travellers coming to Australia are genuine:

> There is no doubt today that the great majority of travellers coming to Australia are bona fide tourists by their very nature. We have to see systems that reflect that and which can manage the growth in volume.[40]

5.86 In order to achieve further simplification of visitor visa processing, DIEA is developing the 'electronic travel authority', also known as the 'electronic visa'. Commenting on the nature of this development, DIEA stated:

> The electronic visa concept involves the travel agent 'requesting' a visa, electronically, in much the same way as they currently request airline reservations, hotel reservations, motor vehicle hire, etc.[41]

5.87 DIEA envisages that travel agents will request a visa by inputting details of the traveller on a standard computer terminal, thereby removing the need for application forms. Details provided by the travel agent will include the traveller's passport number, name, date of birth, gender and passport expiry. This information will be relayed to a central processing point, where it will be checked against alert listings. If there is no match against alert listings, the travel agent will receive a confirmation on the terminal which will state that the traveller has permission to travel to Australia. A confirmation will also be transmitted to the relevant airline to show that the traveller has permission to board an aircraft for Australia. Visa application forms and visa labels will not be used, although a confirmation number will be provided to the traveller if requested. The data upon which the electronic travel authority was issued will be transmitted to entry control points in advance of passenger arrival.

39 Joint Statement by Minister for Tourism, Michael Lee and Minister for Immigration and Ethnic Affairs, Senator Nick Bolkus, 'New Visa Arrangements Make It Easier For Tourists', B78/95, 29 August 1995, Canberra.

40 Evidence, p. 1096.

41 Evidence, p. S608.

5.88 DIEA noted that travel agents will not be required to make inquiries about the traveller's health or character.[42] Assessments relating to character will be made via centralised alert list checking. For most travellers, those checks essentially will be a formality. Travellers will be required to complete a passenger card on arrival in Australia which seeks basic information about health and character. On the basis of the information collected on the passenger cards, the traveller either will be permitted to enter Australia or will be referred for further assessment, as is the case under current arrangements. Following any further assessment, visitors will be granted or refused a visa.

5.89 When questioned by the Committee as to why travel agents would not be asked to seek information concerning the health and character of the traveller, DIEA responded that it was not feasible to expect travel agents to be responsible for these matters. DIEA also commented that, as the vast majority of visitors do not present health and character problems, the small proportion of persons who are of concern to immigration authorities can be screened at the border. Essentially, DIEA argued that such an approach was an extension of risk management techniques already in use. DIEA stated:

> . . . do we have a process that sees . . . one million Japanese . . . fill out a form in Japan so that we can see whether they have got a character issue, or do we concentrate on getting general information out to that marketplace, and then asking the character question on board the plane?[43]

5.90 DIEA acknowledged that the successful implementation of the electronic travel authority requires the establishment of good relationships with travel agents and improved electronic screening processes. In particular, DIEA regarded improvements to MAL as being critical to the project's success.[44] In this regard, DIEA advised that MAL is being enhanced to provide a centralised alert list incorporating not only the elements currently on MAL but also all post-specific warning lists. This issue is discussed further in Chapter Seven.

5.91 Initially, the electronic travel authority is expected to be trialed in a large volume visitor source country, such as Japan, during 1996.[45] In the longer term, DIEA ideally is interested in making electronic travel authority facilities available to a wide network of travel agents.

42 Evidence, p. 1115.

43 Evidence, pp. 1114-1115.

44 Evidence, p. 1152.

45 Evidence, pp. 1217-1218.

5.92 The electronic travel authority is a further step in streamlining assessment procedures for low risk visitors. According to DIEA, the electronic travel authority is not intended to replace intensive screening processes for higher risk visitors. In this regard, DIEA commented:

> In some countries our work continues to have a control orientation. Here we try to continue to develop objective tests of risk, better explanations of decisions and where an Australian party is involved, extensive rights of appeal. We do argue that we cannot simply abandon in part or in full the visa system.[46]

Advance Passenger Clearance

5.93 Advance Passenger Clearance (APC) is a further means for streamlining entry clearance procedures at Australia's international airports.

5.94 Developed jointly by DIEA, Qantas and Customs, APC commenced operation in February 1995 for Qantas passengers departing through Sydney airport. In September 1995, it was implemented for passengers arriving on Qantas flights from Los Angeles. The use of APC is to be expanded progressively to cover most Qantas passengers flying to Australia. APC will be offered to all airlines flying to Australia.

5.95 Passengers are offered APC at the time of check-in, along with their seat allocation and boarding pass. The check-in officer enters either a passport or visa number in the Qantas computer and relays it to DIEA in Canberra, where the passenger information is checked instantaneously against existing records. When the information is confirmed, the airline check-in officer prints out a passenger card including a magnetic strip containing a unique number allocated by DIEA. The passenger card is pre-printed with the passenger's:

- name;
- visa number;
- visa class;
- passport number;
- nationality;
- sex;
- date of birth;

46 Evidence, p. 1092.

- country of birth;
- country where boarded flight; and
- flight number.

5.96 The passenger is required to complete the following information:

- intended length of stay in Australia;
- main reason for coming to Australia;
- country of residence;
- usual occupation; and
- intended address in Australia.

5.97 The passenger also is required to answer:

- whether he or she suffers from tuberculosis; and
- whether he or she has any criminal conviction/s for which the sentence (whether served or not) totalled twelve months in prison or more.[47]

5.98 On arrival in Australia, APC passengers are directed to specially marked express channels. They are cleared by swiping the magnetic strip of their passenger card through document readers and undergoing a face-to-passport check. DIEA estimated that immigration clearance times for APC passengers will drop from the current average of 55 seconds to approximately 20 seconds.[48]

5.99 DIEA stated that, from an immigration perspective, the major benefit of APC will be reduced entry clearance times at airports. A secondary advantage of APC is that DIEA will be able to make use of flight time to examine passenger data electronically and determine whether there might be any reason to refer a traveller to an immigration inspector on arrival in Australia. DIEA indicated that this probably would occur in rare circumstances.[49]

47 As noted at paragraph 5.47, from 1 November 1995 the number of questions on the passenger card was reduced from five to two.

48 Transcript of briefing, 25 August 1995, p. 5.

49 ibid., p 9

5.100 According to DIEA, the information analysis which will be undertaken during flight time is likely to be of most benefit to Customs. DIEA stated:

> . . . [APC] does give [Customs] in most markets nine or ten hours in which to look at certain data against some of their modelling tools, against some of their lookout lists or whatever. It may not be the total information they seek, but it takes them a long way ahead of where they are today when the first they get is when someone fronts the line in Sydney.[50]

5.101 DIEA also indicated that as APC procedures rely on computer links between airlines and DIEA, they represent a starting point for development of the computer technology which will be necessary for the successful implementation of the electronic travel authority.[51]

Visa and entry information

5.102 The decision to grant a visa, to clear passengers for entry or re-entry, or to grant stay or residence in Australia largely is taken on the basis of information provided by the visa applicant. Visa applicants provide the data which is contained in their passports. They fill in or arrange completion of the visa applications and passenger cards. Under the terms of the Migration Act, visa applicants, whatever their age or culpability, bear full responsibility for ensuring that all questions on application forms and passenger cards are answered and answered accurately.

5.103 If a visa applicant neglects to comply with all directions on an application form, the application may be invalid. Immigration officers cannot consider or decide upon invalid visa applications.[52] If a visa applicant provides incorrect information, whether deliberately or inadvertently, this constitutes grounds for cancellation of the visa. Where information provided is correct at the time but the visa applicant's circumstances change prior to the grant of the visa or entry, details of the changed circumstances must be provided to DIEA on an approved form.[53] Where the non-citizen becomes aware that answers given in an application form or passenger card were incorrect when given, details of the correct answer likewise must be given on an approved form. This last obligation, which concerns visa applications made from 1 September 1994, remains following the grant of any visa.

50 Ibid., pp. 8-9.

51 Transcript of briefing, 25 August 1995, p. 3.

52 Section 47 of the Migration Act.

53 Section 104 of the Migration Act.

Immigration clearance

5.104 All passengers arriving in Australia must present their passports, visas and completed passenger cards to a clearance officer. If passengers do not comply with this requirement, their visas cease to be in effect.[54] As part of the clearance process, Customs officers, on behalf of DIEA, examine the documents and check them against the information held on the entry system. In the vast majority of cases, those checks will result in the passenger being cleared for entry to Australia.

5.105 Clearance officers are required to refer to an immigration inspector any passenger who apparently is unable or unwilling to comply with these requirements. This may occur, for example, where the passenger:

- is the subject of a referral on the entry system;
- is listed on MAL or appears to fit the description of such a person;
- does not have an operative visa where one is required;
- holds a visa which has ceased;
- holds a visa containing irregularities;
- holds a travel document or visa which is reasonably suspected to be 'bogus' for the reasons listed in paragraph 5.9;
- arrives without a valid travel document or with an unacceptable travel document;
- appears unable to satisfy certain conditions specified in a visa or there are reasons to suspect that the passenger would not comply with visa conditions;
- claims to be a refugee;
- refuses to submit a completed passenger card;
- answers 'Yes' to the sections of the passenger card concerning health and character; or
- is the subject of an intuitive referral prompted by irregularities in the passenger's claims, documentation or baggage.

54 Section 174 of the Migration Act.

5.106 In assessing a referred non-citizen, immigration inspectors generally interview the traveller and may request a baggage search by a Customs officer. Where an immigration inspector determines that the referred non-citizen is able to comply with immigration clearance procedures, the person is cleared for entry to Australia.

5.107 Where an immigration inspector determines that the non-citizen is unable to comply with clearance procedures, the usual result will be refusal of immigration clearance followed by detention and summary removal of the non-citizen from Australia. The non-citizen may be detained in the transit lounge of the airport pending removal by the relevant airline. Where this is not practical, for example where the next flight is not available for some days, the non-citizen may be taken to an immigration detention centre or other place of custody.

Visitor processing outcomes

5.108 DIEA provided a range of statistical information to the Committee concerning various processing outcomes of the visa system for visitors. That information is summarised below.

Visitor applications overseas

5.109 In 1994-95, a total of 2 646 332 visitor visa applications were received at 87 Australian overseas posts (see Table 5.1).[55] In the same period:

- 2 601 811 visitor visas were issued, representing an approximate overall approval rate of 98.3 per cent;
- 37 417 visitor visa applications were refused, representing an approximate overall refusal rate of 1.4 per cent;
- 49 320 visitor visa interviews were conducted, representing an overall interview rate of 1.9 per cent.

5.110 The five posts which received the most visitor visa applications and issued the most visitor visas during 1994-95 were:

- Tokyo (377 634 applications received, 376 758 visas issued);
- Osaka (317 536 applications, 317 340 visas issued);
- London (212 812 applications, 210 125 visas issued);

55 DIEA provided statistical information in relation to a total of 98 Australian overseas posts. However, 11 of those posts did not receive or process any visitor visa applications. Hence the information concerning processing outcomes only relates to 87 posts.

- Singapore (162 488 applications, 161 657 visas issued); and
- Taipei (134 323 applications received, 134 753 visas issued).

5.111 Sixty-four posts recorded a visitor visa approval rate of 90 per cent or above. The five posts which recorded the highest number of visitor visa refusals were:

- Jakarta (4 159);
- Beijing (3 374);
- Manila (2 845);
- Suva (2 417); and
- Belgrade (1 908).

5.112 The five posts which recorded the highest rates of visitor visa refusal were:

- Tehran (656 refusals compared to 1581 applications received, representing a refusal rate of 41.5 per cent);
- Belgrade (39.6 per cent);
- Dhaka (38.3 per cent);
- Islamabad (37.4 per cent); and
- Lagos (37.0 per cent).

5.113 As demonstrated by the overall interview rate of 1.9 per cent for visitor visas, only a small proportion of all visitor visa applicants are interviewed. This reflects the progressive reduction in personal contact between visitor visa applicants and visa-issuing staff at posts, as outlined earlier in this chapter. At the same time, the information provided by DIEA shows considerable variation in the number of visitor visa interviews which are conducted at individual posts:

- 61 posts showed an interview rate of between approximately zero and 5 per cent of total visitor visa applications;
- 17 posts showed an interview rate of between 5 and 25 per cent; and
- 9 posts showed an interview rate of more than 25 per cent.

5.114 The five posts which conducted the most visitor visa interviews were:

- Bangkok (13 036);
- Jakarta (6 848);
- Auckland (3 609);
- Bali (2 761); and
- Tokyo (1 908).

5.115 The five posts which recorded the highest visitor visa interview rates were:

- Lagos (516 interviews, or 92.6 per cent of applications);
- Cairo (74 per cent);
- Brasilia (52.6 per cent);
- Bali (47.6 per cent); and
- Nicosia (47.2 per cent).

Application processing times

5.116 DIEA provided statistics showing that, as at June 1994, most of the 85 Australian overseas posts surveyed issued visitor visas either immediately or within 24 hours to applicants applying in person, and within 24 hours to people applying by mail.[56]

5.117 For people applying in person at DIEA posts:[57]

- 26 out of 47 posts provided immediate visitor visa issue;
- 9 posts issued visitor visas within 24 hours;
- 5 posts issued visitor visas within 2 days; and
- 7 posts recorded longer processing times ranging up to 10 days.

56 The information provided by DIEA in relation to processing times as at June 1994 concerned only 85 posts.

57 These are posts where DIEA is represented.

5.118 For people applying by mail at DIEA posts:

- 28 posts processed visitor visa applications within 24 hours;
- 8 posts processed visitor visa applications within 2 days; and
- 5 posts recorded longer processing times ranging up to 10 days.[58]

5.119 For people applying by agent at DIEA posts:

- 34 posts processed visitor visa applications within 24 hours;
- 6 posts processed visitor visa applications within 2 days; and
- 7 posts recorded longer processing times ranging up to 10 days.

5.120 For people applying in person at non-DIEA posts:[59]

- 8 out of 38 posts provided immediate visitor visa issue;
- 24 posts provided visitor visa issue within 24 hours; and
- 6 posts recorded longer processing times ranging up to 14 days.

5.121 For people applying by mail at non-DIEA posts:

- 24 posts processed visitor visa applications within 24 hours; and
- 1 post recorded processing times ranging up to 3 days.[60]

5.122 For people applying by courier at non-DIEA posts:

- 27 posts processed visitor visa applications within 24 hours; and
- 3 posts recorded longer processing times ranging up to 11 days.[61]

5.123 The statistical evidence provided by DIEA showed that, as at June 1994, most visitor visa applications were processed within 24 hours. Where more lengthy processing times applied, this often was attributable to bona fides checking, which is a necessary part of visitor processing.

58 6 out of the 47 posts received no applications by mail.

59 These are posts where DIEA is not represented. At these posts, immigration matters generally are dealt with by DFAT officers.

60 13 out of the 38 posts did not receive applications by mail.

61 8 out of the 38 posts did not receive applications by courier.

TABLE 5.1

GLOBAL VISITORS
July 1994 to June 1995
(Ranked by Visa Issues)

POST NAME	APPLICATIONS	INTERVIEWS	REJECTIONS	VISAS
TOKYO	377 634	1 908	348	376 758
OSAKA	317 536	16	89	317 340
LONDON	212 812	591	314	210 125
SINGAPORE	162 488	34	1 079	161 657
TAIPEI	134 323	1 447	55	134 753
SEOUL	127 575	20	130	127 923
BONN	113 604	457	204	113 171
JAKARTA	94 279	6 848	4 159	90 286
HONG KONG	87 890	1 575	779	86 912
KUALA LUMPUR	78 144	80	369	77 841
MANCHESTER	77 976	54	120	77 128
BANGKOK	66 202	13 036	1 285	64 410
WASHINGTON	62 227	397	70	61 823
NEW YORK	58 775	76	324	58 150
SAN FRANCISCO	52 282	62	119	51 500
LOS ANGELES	48 509	109	53	48 188
BERNE	32 602	87	67	32 650
ROME	32 327	123	143	31 986
PARIS	28 756	85	399	28 288
STOCKHOLM	26 679	16	77	26 554
THE HAGUE	26 244	146	54	25 904
PRETORIA	26 141	27	318	25 200
HOUSTON	24 328	542	21	24 201
AUCKLAND	24 402	3 609	999	23 418
VANCOUVER	21 808	55	70	21 602
BEIJING	24 220	163	3 374	19 865
MANILA	22 092	380	2 845	18 927
NOUMEA	17 726	49	14	18 808
VIENNA	19 075	877	795	18 281
PORT MORESBY	15 580	0	92	15 705

POST NAME	APPLICATIONS	INTERVIEWS	REJECTIONS	VISAS
COPENHAGEN	14 081	269	98	13 932
WELLINGTON	14 039	677	189	13 780
TORONTO	12 155	88	31	12 040
DUBLIN	12 099	204	50	11 948
SUVA	14 640	397	2 417	11 788
NEW DELHI	12 552	286	773	11 596
OTTAWA	9 785	93	22	9 682
SHANGHAI	8 255	1 021	974	7 251
BRUNEI	6 899	376	64	6 797
BRUSSELS	6 910	284	34	6 750
TEL AVIV	6 789	237	116	6 615
MADRID	6 154	20	83	6 037
HONOLULU	5 978	28	35	5 974
BUENOS AIRES	5 961	92	33	5 955
MOSCOW	6 844	307	1 159	5 766
ATHENS	6 046	51	157	5 732
BALI	5 805	2 761	231	5 472
COLOMBO	4 959	494	543	4 374
PORT LOUIS	3 879	144	34	3 811
DUBAI	4 201	141	407	3 763
DAMASCUS	5 456	399	1 887	3 495
BRASILIA	3 475	1 829	145	3 309
WARSAW	3 573	0	641	2 900
BELGRADE	4 816	503	1 908	2 769
RIYADH	2 809	202	152	2 685
HANOI	3 496	635	1 080	2 676
BUDAPEST	2 468	25	71	2 489
SANTIAGO	2 491	37	150	2 287
MEXICO CITY	2 251	3	3	2 264
HARARE	2 246	102	60	2 157
NAURU	1 915	46	0	1 909
HONIARA	1 862	0	36	1 850
PORT VILA	1 770	488	41	1 800
ISLAMABAD	2 602	198	973	1 733

POST NAME	APPLICATIONS	INTERVIEWS	REJECTIONS	VISAS
NUKU'ALOFA	2 178	11	640	1 639
APIA	1 818	35	259	1 596
CARACUS	1 505	103	21	1 472
VALLETTA	1 373	30	1	1 369
NICOSIA	1 387	654	28	1 353
TEHRAN	1 581	115	656	1 235
TARAWA	1 082	16	2	1 138
CAIRO	1 679	1 243	601	1 087
BOMBAY	1 025	1	6	1 000
ISTANBUL	1.119	407	207	896
ANKARA	1 204	144	290	884
NAIROBI	980	32	32	882
GUANGZHOU	866	0	0	866
DHAKA	1 113	138	426	734
AMMAN	1 103	0	351	667
KATHMANDU	547	241	40	497
RANGOON	499	177	17	429
PHNOM PENH	662	97	234	383
POHNPEI	330	6	1	368
LAGOS	557	516	206	296
VIENTIANE	215	48	37	265
NORFOLK ISL	11	0	0	11
CHRISTMAS ISL	1	0	0	1
EDINBURGH	0	0	0	0
BEIRUT	0	0	0	0
LISBON	0	0	0	0
MILAN	0	0	0	0
KINGSTON	0	0	0	0
BAGHDAD	0	0	0	0
PRAGUE	0	0	0	0
CHICAGO	0	0	0	0
LUSAKA	0	0	0	0
ALGIERS	0	0	0	0
GENEVA	0	0	0	0
TOTAL	**2 646 332**	**49 320**	**37 417**	**2 601 811**

5.124 In relation to processing times for the year 1994-95, DIEA stated in its *Annual Report 1994-95*:

> Most visitor visas are issued within 24 hours of the application being received at the post. Where applications are lodged personally, visas are issued 'on the spot' wherever possible. It is recognised, however, that an applicant's perception of processing time is determined by the overall processing time which, from the applicant's perspective, may be several weeks allowing for mailing time.[62]

5.125 Having considered the processes by which visitors currently gain entry to Australia, the Committee examines in the following chapters proposals for the future operation of the visitor visa and entry system.

62 DIEA, *Annual Report 1994-95*, Australian Government Publishing Service, Canberra, p. 70.

Section Three

THE FUTURE OF AUSTRALIA'S VISA SYSTEM FOR VISITORS

In this final section of the report, the Committee outlines the evidence it received in relation to Australia's visa system for visitors and provides its detailed conclusions and recommendations on the future of that system.

In Chapter Six, the Committee considers the proposals concerning the visitor visa system made during the inquiry, focusing particularly on whether the universal visa system should be retained or whether visa free travel arrangements should be introduced. The Committee sets down its conclusions and recommendations concerning this primary issue.

In Chapter Seven, the Committee outlines its proposals for enhancing Australia's visitor entry arrangements, taking into account the variety of issues raised in submissions and at public hearings.

In this section of the report, the Committee outlines its considered view on how visitor entry to Australia should be managed in the future.

Chapter Six

OPTIONS FOR THE FUTURE

Introduction

6.1 Over the next decade, Australia will face significant challenges in managing the movement of visitors across its borders. As noted in Chapter Three, it has been estimated that visitor arrivals will increase annually at a rate of around 9 per cent, leading to approximately 7.6 million visitors arriving in Australia in the year 2003.

6.2 During the inquiry, there was broad agreement that the systems used to manage visitor entry must change in order to meet the challenges posed by this increasing volume of visitor arrivals to Australia. As noted by DIEA:

> The challenge of coping with and helping along the growth of tourism through to the year 2000 cannot be met with the existing systems.[1]

6.3 While there was consensus about the need to change, contrasting views were put to the Committee about the type of change which is required. The main point of contention was whether permission to enter and stay in Australia, currently provided in the form of a visa, must continue to be obtained before visitors travel to Australia or whether certain visitors can be processed onshore, obviating the need to obtain visas offshore.

6.4 In this chapter, the Committee examines the range of arguments put to it concerning the future of Australia's visa system for visitors. In considering those arguments, it was important for the Committee to assess whether the benefits of the existing system justify the costs involved in its operation. The Committee's overall objective was to ensure that the system for controlling entry to Australia up to and beyond the year 2000 is able to cope with the increasing number of visitor arrivals to Australia while maintaining appropriate safeguards for the Australian community.

---

1 Evidence, p. 1091.

Proposals for the future

6.5 The main proposals for consideration by the Committee were:

- maintain the existing requirement for all visitors to obtain a visa before they travel to Australia, with streamlined assessment and visa issuing processes for those visitors who are considered unlikely to overstay their period of entry or breach their entry conditions; or

- allow visa free travel arrangements, whereby all visitors, or alternatively visitors unlikely to overstay their entry period or breach their entry conditions, would not be required to obtain a visa prior to travel to Australia and, instead, would be processed on arrival.

6.6 DIEA and law enforcement agencies were the main proponents for maintaining offshore visa processing for all visitors. They argued that visas facilitate travel while ensuring that persons who pose a risk to the Australian community are prevented from travelling to Australia.

6.7 DFAT indicated that consideration should be given to the introduction of visa free arrangements for certain selected countries. It proposed that an interdepartmental committee be established for this purpose.

6.8 Tourism industry representatives were the principal and most vocal advocates for moving to some form of visa free arrangement. The tourism industry claimed that the universal visa system was having a detrimental effect on tourism. It also argued that the system could not continue to operate effectively or efficiently in the future if the expected growth in visitor arrivals to Australia were achieved.

6.9 Other witnesses, including some government agencies involved in tourism, did not indicate a preference for either a universal visa or a visa free system. They simply outlined the advantages and disadvantages associated with each system without coming to any firm position on which system would be the most appropriate for Australia.

6.10 In relation to the visa free option, only a few proponents suggested that it should be available for all visitors to Australia. Most of those advocating visa free travel argued that it should be selective visa free, only available for certain designated visitors. In this regard, differing views were expressed on the criteria under which visitors would be selected as visa free travellers if the proposal were adopted.

6.11 In various submissions, it was suggested that only visitors from countries which have low rates of visitor overstay should be eligible for visa free travel. In some submissions, it was argued that eligibility for visa free travel also should require countries to satisfy the additional criteria of having secure passports, low rates of visitor refusal and a low incidence of visitors applying for change of status from within Australia.

6.12 Various countries were nominated by witnesses as deserving of inclusion in a visa free travel arrangement with Australia. Japan was the most frequently nominated country for inclusion. Other nominated countries included Canada, Hong Kong, Indonesia, Korea, Malaysia, Singapore, Taiwan, the United Kingdom, the United States of America and the European Union countries. Many of these countries nominated by witnesses currently are major sources of visitor arrivals to Australia and exhibit low rates of visitor overstay. Many also are included in visa free travel arrangements operated by New Zealand and the United States.

6.13 One proposal was that a particular country or group of countries with a high volume of visitors to Australia and low overstay rates should be selected for a trial of visa free travel to Australia. It was suggested that this would provide the opportunity to monitor initial results and amend or terminate the arrangements at the end of the trial period.

6.14 Some witnesses proposed that eligibility for visa free travel should be determined by considering the reason for the visit and the intended period of stay. For example, Nisui-Kai, representing various Japanese travel industry organisations, suggested visa free travel for Japanese visitors intending to stay in Australia for 15 days or less.[2] The Meetings Industry Association of Australia proposed that visa free travel should be available for all bona fide delegates to meetings, seminars and conferences.[3]

6.15 Other witnesses suggested that eligibility for visa free travel could be determined by taking into account economic considerations. Representatives of the Christmas Island Resort, for example, proposed that visa free arrangements should be introduced for visitors to Christmas Island who intend staying for ten days or less, to ensure that the Christmas Island casino does not lose clients to casinos in countries which allow visa free entry.[4] As another example, the Northern Territory Government proposed visa free travel for visitors from Brunei, Indonesia, Malaysia and the Philippines, as this would complement the Northern Territory's efforts to be included as a member of the Brunei, Indonesia,

---

2 Evidence, p. S864.

3 Evidence, p. S652.

4 Evidence, pp S308-S309, p. 570.

Malaysia and Philippines East ASEAN (Association of South-East Asian Nations) Growth Area.[5]

6.16 A separate suggestion from the Tourism Task Force was that visitors who are nationals of countries which are members of the Asia-Pacific Economic Cooperation (APEC) should be permitted to enter Australia under a visa free travel arrangement similar to that operating between member states of the European Union. When questioned by the Committee as to whether this meant 'no visa at all [and] no questions', the Tourism Task Force indicated that this was its preferred option.[6]

6.17 In general, however, there was broad acceptance that any visa free arrangement would not involve free entry to Australia but would include some form of checking at the border. Most did not elaborate on what form that checking should take.

6.18 Some witnesses suggested that visitors permitted to travel to Australia without a visa should have their passports stamped or be issued with visas upon arrival provided that they are able to present evidence of a return ticket and sufficient funds for personal support for the duration of the visit.

6.19 Various witnesses suggested that visa free should not mean the transfer of existing checking from offshore to onshore. A few argued that visa free passengers should be required to undergo only basic identity checks. ITOA, for example, stated:

> . . . in respect of the citizens of those countries where . . . visa free entry [has been] granted . . . an identity check is all that should be required. Hence if citizens of say USA are entitled to visa free entry all that would be necessary for them is to present their passport at the barrier to check their identity.
>
> They would also be required to submit a completed passenger card. It may be necessary to insert some additional words on the declaration for legal purposes, eg. certifying that they will not stay for more than say 2 calendar months.[7]

6.20 By contrast, DIEA, which was opposed to the visa free proposal, indicated that if checking procedures at the border were to be of value, the minimum information which border officials would need to collect from visa free visitors would include the visitor's full name, date of birth, gender, passport number and purpose of travel. DIEA also indicated that before entry could be

5 Evidence, p. S736.

6 Evidence, p. 121

7 Evidence, p. S225.

approved, border officials at least would have to check the warning lists and assess whether there were any possible matches.[8]

Visa versus visa free

6.21 During the inquiry, those advocating retention of the universal visa requirement highlighted the benefits of that system and the risks involved in moving to visa free travel arrangements. By contrast, those supporting visa free travel, or more precisely selective visa free travel, outlined the drawbacks of the existing system and the benefits which could accrue from visa free arrangements. The arguments on both sides of the debate are canvassed in the sections which follow.

Travel facilitation

6.22 In a number of submissions, it was suggested that the requirement to obtain a visitor visa prior to arrival in Australia facilitates entry on arrival. As noted by Tourism Victoria:

> . . . the current system allows for the efficient processing of passengers at arrival points. With a visitor's identity already investigated and their details entered onto the Department of Immigration and Ethnic Affairs computer at the time the visa is issued, there is no need for extensive investigation of people as they arrive. All that is required is a check to ensure the visa and passport match the computer record and once this is established, the visitor can pass through. Perhaps due to this system Australia's passenger processing times are very competitive and well below the international benchmark of 45 minutes for a passenger aircraft.[9]

6.23 DIEA indicated that because decisions on entry effectively are made before the traveller arrives on Australia's shores, the border process in 98 per cent of cases simply involves a confirmation that the traveller matches the travel documents presented and that those documents are in order. On this point, DFAT commented:

> . . . successful completion of Australia's visa processes provides virtual assurance of entry on arrival. Such certainty is not matched by many other countries using different entry systems, including selective visa-free entry. With the key elements of entry clearances finalised

8 Evidence, p. S614.

9 Evidence, p. S153.

> for each visitor before travel, the existing universal visa system thus minimises the onus on decision-makers at the point of entry, enables expeditious processing on arrival and protects carriers, for whom the costs associated with returning passengers to whom entry is denied are onerous.[10]

6.24 According to DIEA, the integration of the visa and entry systems provides fast processing of arriving international passengers, with 95 per cent of visitors passing through all entry processes, including immigration clearance, baggage retrieval and Customs checks, within 30 minutes.[11]

6.25 While a number of witnesses highlighted the benefits of the visa system in facilitating arrival processes, contrasting views were presented about the impact that visa free travel would have on entry arrangements. DIEA warned that visa free travel would lead to delays in the processing of arriving passengers as various items of information would need to be obtained from visa free passengers and recorded in the entry database. In DIEA's view, this would necessitate questioning of passengers, with its attendant language difficulties. In addition, appropriate checks would have to be undertaken against warning lists. According to DIEA, this expanded clearance procedure would at least double the existing average clearance time of around 55 seconds for arriving passengers. In its view, this would generate terminal congestion or, to avoid that problem, require additional passenger clearance infrastructure.[12]

6.26 Customs also suggested that there could be delays in arrival processes and implications for customs control if visa free arrangements were introduced. Customs stated:

> Under the present system, the fact that a person arriving here has had some preliminary assessment of suitability on migration grounds means that the risk assessment carried out at the border can concentrate on possible prohibited goods the person may be carrying, rather than the person . . . If the [Australian Customs Service] were presented with arriving passengers on whom no data had been collected, or migration assessment undertaken, this would have a clear impact on facilitation rates.[13]

10 Evidence, p. S571.

11 Evidence, p. S624.

12 Evidence, p. S614.

13 Evidence, p. S562.

6.27 On this issue, Qantas agreed that if pre-arrival information about passengers were not available, information necessary to complete arrival processes would need to be collected manually at the primary arrival line. Commenting on the potential implications of this, Qantas stated:

> Should significant numbers of passengers require expanded data capture due to the fact that they do not have a visa, the impact at Australia's international airports would be considerable. Per passenger processing times would increase, meaning more dwell times in terminals. Through-put of terminals would drop accordingly, reducing capacity and putting more pressure on terminal owners to extend facilities. Government would be forced to provide resources to staff the extended facilities. Increased costs would probably be reflected in passenger movement charges (Departure Tax) which would again impact adversely on tourism. Significantly increased arrival processing times and the flow on effects would totally negate any liberalisation of visitor visas.[14]

6.28 Qantas argued that if a decision were taken to waive the visa requirement for selected nationals, the screening process must not be shifted to the border. In its view, a decision to remove the visa requirement must also mean that holders of exempt passports may cross the border with no more than an identity check.[15]

6.29 In contrasting submissions, it was argued that the experience of countries with selective visa free systems suggests that processing times would not increase noticeably under visa free arrangements. The International Air Transport Association stated:

> We are fully aware that the clearance process on arrival in Australia is expeditious and we are advised that this is due to the fact that all persons have already been checked at the time their visas are issued which allows for prompt clearance. While this may be the case, other states [which] do not have a requirement for visas often clear passengers just as fast (such as many states in the European Union). We therefore question if the lengthy process of obtaining a visa is indeed necessary.[16]

14 Evidence, p. S303.

15 Evidence, pp. S303-S304.

16 Evidence, p. S401.

6.30 In a similar vein, the Queensland Government commented:

> . . . despite claims by Australian immigration officials that introduction of visa free tourist travel arrangements would increase processing times at the point of entry (airports), this is contrary to the experience of the frequent traveller. For example, the current processing time at Australian ports appears to be no quicker than at many Asian ports with visa free systems.[17]

6.31 In some submissions, it was noted that the change to visa free travel arrangements in New Zealand has not resulted in any noticeable increase in passenger processing times at points of entry. On this point, however, DIEA indicated that because around 80 per cent of passengers arrive in New Zealand from Australia, New Zealand authorities can to some extent rely on the checking processes that are undertaken as part of Australia's universal visa arrangements. DIEA's Deputy Secretary commented:

> . . . New Zealand, in its policy considerations of its visa requirements, can take heart in the fact that Australia's system is, to a large degree—80 per cent at the moment—going to determine who flows to them. That gives you a degree of confidence, in the first instance, if you are only dealing with 20 per cent. I believe that has been a significant factor in New Zealand's policy decision to go another way from Australia . . . If we had another great landmass up there which had a very similar system to ours, and we found that 80 per cent of the visitors to our country came through that system, in a policy advisory sense, we would be saying, 'We do not have to worry about 80 per cent of our inwards movements. They have been checked through another system'.[18]

6.32 As for the experience of the United States, DIEA argued that the visa waiver arrangements operating there have resulted in congestion at international airports. DIEA stated:

> The congestion at east and west coast gateways and at Honolulu, for example, is a cause of concern to the traveller, the airlines and border agencies. Much effort is being directed to resolving the congestion, much of which can be attributed to the extra time required to process visa waiver travellers.[19]

17 Evidence, p. S278.

18 Evidence, pp. 1206-1207.

19 Evidence, p. S621.

Public order and public safety

6.33 Another argument for maintaining offshore visa processing is that it allows for the early detection and exclusion from Australia of persons who are considered likely to pose a risk to public order and safety. In this regard, law enforcement and security agencies highlighted the importance of obtaining information about visitors before they arrive at the border. In their view, the advance information provided in visitor visa applications allows comprehensive checking of information to be undertaken and appropriate decisions about entry to be made away from the pressures which arise when people are waiting to be processed at the border.

6.34 The National Crime Authority (NCA), the Australian Federal Police (AFP) and the Australian Security Intelligence Organization suggested that without the capacity to undertake necessary checks of visitors prior to their arrival in Australia, it would be far more difficult to detect and prevent the entry of undesirable persons. In their view, downgrading or abolition of the visitor visa system would necessitate detailed screening of travellers at the border, which would increase the pressure on clearance officers and have adverse consequences for the integrity and efficiency of the clearance process. In this regard, the AFP commented:

> A visa free tourist travel system would irretrievably breach the integrity of Australia's defences and would compromise national security, international obligations and law enforcement controls. Should the visa system be removed, the only opportunity to determine whether a person . . . should be denied entry to Australia will be at the barrier. This will place increased pressure on processing staff at points of entry where neither the time or the resources will be available to carry out the necessary inquiries for the purpose of clearing/not clearing the person concerned, and the pressure of facilitation will make it far more difficult to turn persons of interest around after arrival.[20]

6.35 The NCA argued that leaving the assessment of visitors until they arrive at the border would reduce the opportunities to use criminal records and overseas criminal intelligence to prevent the entry of undesirable persons.[21]

6.36 In support of their arguments, law enforcement agencies provided the Committee with various examples of the way in which advance information obtained through the visa process has enabled the detection and exclusion of persons who were considered likely to engage in criminal activities while in

20 Evidence, pp. S359-S360.

21 Evidence, p. S828.

Australia or who posed a risk to the Australian community. Those case examples, some of which were confidential to the Committee, involved suspected assassins, drug traffickers and prostitutes. Law enforcement agencies indicated that, in those cases, the ability to trace information through the visa application process was of crucial significance in enabling the detection and exclusion of undesirable persons.

6.37 In particular, law enforcement agencies indicated that the information provided in visa applications could be used to trace patterns of potential criminal activity. In one example provided to the Committee, the details of overseas prostitutes found working in Australia were matched to details in other visa applications to prevent the entry of other persons considered likely to engage in prostitution in Australia.[22]

6.38 The AFP noted that a further advantage in obtaining advance information about visitors is that it enables police surveillance activities to be organised. By obtaining advance information, a conscious decision can be taken about allowing a suspect person, such as a drug trafficker, to enter Australia. That person can be placed under police surveillance with the aim of uncovering the source of criminal activity within Australia. According to the AFP, such surveillance activities would be impossible to organise without advance information about arriving passengers.

6.39 Tourism Victoria highlighted a related benefit which arises from the screening filter provided by the visa system. It stated:

> A major strength of Australian tourism is that it is considered a safe destination and by restricting the entry of known criminals the visa system helps to maintain Australia's reputation in this area.[23]

6.40 Other witnesses argued that offshore visitor processing does not present an effective barrier for those who are committed to gaining entry to Australia. DFAT, for example, stated:

> It is probably true that the perceived rigour of the existing Australian system has the advantage of discouraging non-bona fide visitors. This is hard to prove, but DFAT doubts that this advantage will be of any real merit in the longer term in those countries from which the largest number of visitors come, if only because no system of visa processing can exclude all those persons whose presence in Australia might activate controversy or represent a security threat. The realities of modern massive tourism mean that the security which was once

22 Evidence, p. 1046

23 Evidence, pp. S152-S153.

> available from procedures like those we currently employ has all but disappeared.[24]

6.41 From a similar perspective, Qantas and ITOA suggested that those criminal elements committed to gaining entry to Australia would have the requisite resources and expertise to circumvent existing requirements.

6.42 In response, law enforcement agencies acknowledged that the universal visa system does not provide a perfect screen against the entry of undesirable persons because of difficulties in getting access to information from overseas. Indeed, the NCA and AFP indicated that, after checking back through entry records, they were able to record that around 200 persons who they now know to be members and associates of the Japanese crime group the Yakuza had gained temporary entry to Australia since 1986.[25] Law enforcement agencies, however, stressed that an offshore screen with limitations is better than a filter which commences operation only when a person arrives at the border.

Immigration risks

6.43 A further argument for maintaining the universal visa system is that it minimises the risk of visitors overstaying their period of entry, breaching their entry conditions or using the visitor arrangements to avoid the offshore immigration queue by lodging applications for residence from within Australia. Commenting on the success of the visa system in minimising those risks, DIEA stated:

> There has been no major threat to orderly migration. Indeed the illegal population in Australia is declining. There has been no major threat to the health and security of the Australian community. Labour market considerations have been met.[26]

6.44 Statistics provided by DIEA show that as at 30 June 1994, there were approximately 69 600 overstayers in Australia, of whom around 47 800 overstayers (68 per cent) had arrived on visitor visas. This gives an overall visitor overstay rate of around 0.2 per cent. DIEA figures also show that, in recent years, the number of overstayers has been declining. There were 79 800 overstayers as at June 1993, 81 500 overstayers as at April 1992 and 90 000 overstayers as at April 1990.[27]

24 Evidence, p. S571.

25 Evidence, p. 1048.

26 Evidence, p. 1081.

27 DIEA, Fact Sheet 6, 'People in Australia Unlawfully', 5 December 1994.

6.45 By comparison, in the United States, which operates a visa waiver program, around 473 000 visitors overstayed their visas in 1992 out of a total of 19 million visitor arrivals in that year. This provides a visitor overstay rate of around 2.5 per cent. Of those overstayers, 93 000 had entered the United States under the visa waiver arrangements. According to DIEA, evidence provided to a congressional committee hearing indicated that the overstay figure had increased to 3.4 million in 1994 and was continuing to grow by around 300 000 per year.[28]

6.46 Other witnesses pointed to the experience of New Zealand. Despite implementing visa free travel arrangements, New Zealand does not appear to have had an increase in overstayers, although limited information in this regard was provided to the Committee. DIEA noted that information from New Zealand and the United States is based on derived figures which, unlike Australian statistics, are not calculated by matching of individual names for arriving and departing passengers.[29]

6.47 On a separate issue, DIEA argued that the universal visa system also helps to minimise the number of border asylum claims. DIEA stated:

> While it is not possible to provide specific and definitive evidence, it does appear that the universal visa requirement of Australia has been a deterrent for persons without valid claims to use asylum processes to seek entry to Australia to stay permanently.[30]

6.48 According to DIEA, there is little doubt that visa free travel would lead to an increase in border claims for asylum and refugee status. DIEA indicated that this is clearly the case in Canada and the United States, which operate selective visa free arrangements, although no statistical evidence was provided to support this claim. Statistics, however, were provided by DIEA to indicate the higher incidence of border asylum claims in the United Kingdom, which also operates a selective visa free system. DIEA noted that in 1993, 58 million travellers arrived in the United Kingdom and 7 344 claims for asylum were made at the border, providing a rate of 1 asylum claim for every 7 340 arrivals. In comparison, in 1993-94, 5.6 million travellers arrived in Australia and 75 claims for asylum were made at the border, providing a rate of 1 asylum claim for every 75 000 passengers.[31]

28 Evidence, p. S1204.

29 Transcript of briefing, 25 August 1995, p. 12.

30 Evidence, p. S617.

31 Evidence, p. S1205.

6.49 DIEA noted that individuals without valid asylum claims are known to have used stolen and forged passports of countries to which visa free arrangements apply in order to arrive at the border and make an asylum claim. Such claims generally must be considered by the relevant country, which often can be an expensive and lengthy process. Even if the claims are dismissed, countries often face difficulties and expenses in removing failed asylum seekers.[32]

6.50 DIEA's submission in this regard related to border asylum claims. Statistics provided by DIEA show that the number of visitors making asylum claims after entering Australia has increased in recent years, from 1 325 in 1989-90 to 2 390 in 1992-93 and 4 856 in 1994-95.[33]

6.51 Another argument for retaining the universal visa requirement is that visa free arrangements increase the risk of people breaching their entry conditions. In this regard, DIEA stated:

> The capacity for more visitors to work illegally in Australia is judged to be higher under some form of selected visa free arrangement which relies solely on border assessment of cases. It is undeniable that less time can be designated to assessment of entry at the border than is possible under an off-shore assessment regime. It is also much more difficult to refuse entry to doubtful cases at the border than off-shore. Airport staff will obviously feel less able to give the weight they should to bona fides questions when dealing with someone who has probably incurred an expensive airfare and travelled a great distance, than might be the case for staff at an overseas mission. Some would contend that is as it should be, that the client gets the benefit of the doubt. Others would say that entry regulations, including bona fides assessments, are in place to safeguard the broad interests of the Australian community.[34]

6.52 The Commonwealth Department of Human Services and Health argued that a loosening of visitor controls also would lead to a higher incidence of people coming to Australia as visitors in order to access the Australian health system.[35]

32 Evidence, pp. S616-S617.

33 Evidence, p. S1228.

34 Evidence, p. S617.

35 Evidence, p. S170.

Tourism

6.53 While some argued that the universal visa system provides benefits for the Australian community and visitors to Australia, others argued that the existing system presents a number of disadvantages which ultimately are a cost to the Australian community. In particular, it was submitted that the requirement for visitors to obtain a visa prior to travel is an impediment to tourism. Various organisations, particularly those representing the tourism industry, claimed that visas deter people from visiting Australia, with consequential adverse implications for the tourism industry and the Australian economy. Tourism industry groups were among the strongest advocates for introducing visa free arrangements for visitors from designated countries

6.54 A variety of evidence was received by the Committee concerning the impact of visas on the tourism industry. A number of tourism industry representatives indicated that the universal visa requirement contributes to a substantial loss of tourist business. The Tourism Task Force, for example, commented:

> Despite its noble intention, the current visitor visa system in Australia deters thousands of visitors from coming to Australia each year.[36]

6.55 Some witnesses cited studies which have attempted to quantify the loss of tourist business attributable to visas. On the basis of a survey conducted by the National Centre for Studies in Travel and Tourism, Tourism Council Australia[37] estimated that consumer resistance to the current visa system could be resulting in lost foreign revenue earnings of up to $1 billion per year.[38] The Tourism Council noted that this estimate was calculated on the basis that 18 per cent of those surveyed indicated that the visa process would discourage future visits to Australia.[39]

6.56 Tourism Victoria cited a 1994 Monash University study on the Korean market, which noted that one airline estimated a 10 per cent loss in sales out of Korea to Australia due to the need to obtain a visa.[40]

36 Evidence, p. S110.

37 Formerly Australian Tourism Industry Association.

38 Evidence, p. S413.

39 Evidence, p. S419.

40 Evidence, p. S154.

6.57 In other submissions, it was suggested that while there is no conclusive empirical evidence on the impact of visas on visitor numbers, anecdotal evidence indicates that visas act as a deterrent to visitors travelling to Australia. In this regard, the Australian Tourist Commission (ATC) stated:

> There is strong anecdotal evidence and a degree of logic that suggests that the requirement to obtain a visa for travel is likely to act as a deterrent to travel. It would also seem likely that the requirement to obtain a visa is unlikely to attract visitors to a country, except if they associate the requirement for a visa with a heightened level of safety or minimisation of processing time at the point of destination. More likely however, the necessity for a visa would be associated with the time and effort required to obtain it prior to actual travel.[41]

6.58 Some State tourism commissions noted feedback from their overseas offices which indicated that the visa requirement is a barrier to the marketing of Australia as a holiday destination. It was suggested, for example, that the visa requirement is incompatible with promotional material which emphasises Australia's easy lifestyle. Tourism commissions also indicated that some travel agents are not inclined to promote Australia as a travel destination because the visa requirement involves additional work and inconvenience for the agent. Tourism Victoria commented:

> Putting the agent to any inconvenience will result in them preferring to sell other destinations ahead of Australia.[42]

6.59 It also was suggested that the visa requirement impedes Australia's access to the so-called 'late booking' market, involving travellers who make their travel decisions with little lead time before their departure. According to tourist industry representatives, an increasing number of travellers, particularly from the Asian region, are making travel decisions on the spur of the moment. Tourist representatives suggested that Australia is missing out on the growth opportunities this presents because the time and effort involved in obtaining a visa is deterring such travellers from selecting Australia as a travel destination. Commenting on the Japanese market, Qantas stated:

> Anecdotal evidence suggests that passengers who book late are discouraged from Australian package tours due to the need to acquire a visa. Instead they are sold packages

41 Evidence, p. S372.

42 Evidence, p. S154.

to the USA, Korea or Taiwan where there are no visa requirements.[43]

6.60 On this point, the ATC and the Western Australian Tourism Commission suggested that introduction of visa free travel arrangements would enable Australia to tap into this lucrative and growing 'late booking' market, particularly in the Asian region.

6.61 While some witnesses were unequivocal about the adverse impact of visas on tourism, others suggested that the visa requirement is best characterised as an inconvenience or 'hassle'. In this regard, Tourism Victoria commented:

> . . . it is difficult to tell whether the visa is a real barrier to travel or merely the perception of a barrier. Whether it is a real barrier will depend on how much effort it actually does take for a visitor to obtain a visa and this depends predominantly on the way the system is administered.[44]

6.62 In contrast to the views of the tourism industry, DIEA asserted that high levels of visitor growth to Australia in recent years suggest that significant numbers of travellers are not deterred from visiting Australia by the visa requirement. In this regard, DIEA noted that the growth in visitor numbers from certain markets has exceeded the growth experienced in New Zealand, where visa free arrangements operate.[45] In response, tourism industry representatives suggested that the growth in visitor numbers to Australia would have been more substantial under some form of visa free travel arrangement.[46]

6.63 Indeed, in a number of submissions it was suggested that the introduction of visa free travel arrangements would provide a significant boost to tourism. ITOA, for example, estimated that:

> . . . an increase in visitor numbers of around 2% would not seem unrealistic. Such an increase would benefit Australia to the extent of some $200 [million per annum] and result in the creation of around 3 500 jobs.[47]

43 Evidence, p. S291.

44 Evidence, p. S154.

45 Evidence, p. S620.

46 Evidence, p. 764.

47 Evidence, p. S223.

6.64 In its submission, Qantas claimed that it could expect to carry an additional 39 000 Japanese visitors in 1994-95 if travel to Australia were visa free.[48] Subsequently, at a public hearing, Qantas advised the Committee that it had made a calculation error and revised its estimate to 1 000 additional Japanese visitors.[49]

6.65 Other witnesses suggested that New Zealand's experience in implementing visa free travel arrangements clearly demonstrates the benefits to tourism which arise from a selective visa free system. IARC commented:

> The figures of the numbers of visitors to New Zealand from the gazetted [visa free] countries . . . show that the visa free system has increased tourism from those countries at a steady 1.3% each year since the scheme was introduced in 1987. Although the number of visitors from those countries dropped between 1992-93 (reflecting the worldwide trend of fewer people travelling during 1993) the 1993 figures are still 6.2% higher than those from before the visa-free scheme was introduced. This reflects the fact that there is a benefit to tourism and greater encouragement for people to visit a country with a visa free travel system.[50]

6.66 On this same point, Tourism Victoria indicated that a major Korean travel wholesaler had expressed the view that New Zealand's visa free policy was the reason some clients chose to travel to New Zealand in preference to Australia. Tourism Victoria noted that travel by Koreans to New Zealand grew by 138 per cent in 1993 compared with a growth of 96 per cent for Australia.[51]

6.67 Figures from the United States also suggest that visa free travel may assist in increasing visitor numbers. As noted at paragraph 2.84, visitors to the United States from nine visa waiver countries increased by 774 per cent, compared with a 49 per cent growth rate for all overseas visitors.

6.68 In response to these statistics, particularly the figures from New Zealand, DIEA noted that, despite the visa requirement, international tourism to Australia is growing at a faster rate and from a larger base than is tourism to New Zealand. DIEA indicated that in the 12 months to April 1994, visitor arrivals to New Zealand increased 11.6 per cent, while visitor arrivals to Australia increased 15.5 per cent. According to DIEA, the actual arrival numbers present a particularly stark contrast. In relation to Japan, for example, DIEA noted that while the percentage increase in arrivals slightly favours

48 Evidence, pp. S291-S292.

49 Evidence, p. 4.

50 Evidence, p. S252.

51 Evidence, p. S154.

New Zealand, 7 per cent for New Zealand compared to 6.8 per cent for Australia, the overall number of arrivals significantly favours Australia, with 686 671 Japanese visitors arriving in Australia compared to 141 646 arriving in New Zealand.[52]

6.69 DIEA suggested that the visa requirement is not a significant factor in a person's decision about whether to visit Australia. DIEA commented:

> Market research carried out by the ATC would suggest that such matters as the cost of travel, travel time, the cost of the ground component of the visit, the security of the country, image in terms of features/services etc. are all more significant than the requirement to obtain a visa.[53]

6.70 On this point, the ATC advised in a late submission to the inquiry that it had conducted consultations in Japan and Australia throughout 1995 as a prelude to a summit in Japan involving key figures in the Japanese and Australian tourism and aviation industries. According to the ATC, all major Japanese organisations involved in the hearings nominated Australia's requirement for visitors to obtain a visa as a key factor limiting Australia's potential to attract visitors from Japan.[54]

6.71 In this regard, the communique from the tourism summit, which was held in Tokyo on 18 October 1995, indicated a range of matters requiring attention if tourism to Australia was to be encouraged. The communique noted the need to 'achieve a commitment to work towards the following objectives:

1. The improvement and development of tourism infrastructure

   - Increased infrastructure development in major tourism centres, particularly international standard hotel accommodation in Sydney, Gold Coast, Cairns, Brisbane, Perth and the Northern Territory.

   - To maximise the use of existing infrastructure by spreading activities and locations. The ATC, state and territory tourist commissions and transport organisations will research new destination options and prepare suggested itineraries for appropriate market segments.

52 Evidence, p. S620.

53 Evidence, p. S620.

54 Evidence, p. S1231.

2. Marketing and distribution

   - The development and distribution of highly competitive travel products appropriate to a broader market in Japan.

   - More coordinated destination promotion by the ATC, state and territory tourist commissions, airlines, travel agencies, hoteliers, inbound operators and the like, with an emphasis on converting strong demand into actual travel.

   - Facilitate the inclusion of new product.

   - More concerted promotion of affordable [Free and Independent Tourist] travel.

   - More coordinated effort by Australian product suppliers to communicate new product development through destination promotion missions.

   - The improvement of travel agent knowledge and skills about Australia through specific training, educational and familiarisation programs.

   - Create and communicate to the consumer a clearer image of Australia.

   - Share more consumer and visitor satisfaction research with Japanese industry suppliers.

   - Proactively communicate ATC's 5 year marketing plan in order to generate a better understanding by the Australian and Japanese industries of ATC's marketing objectives.

3. Product pricing

   - Pricing at levels that are competitive to other destinations, while ensuring that reasonable profits are earned by the parties involved.

   - A review of pricing competitiveness by concerned parties following the Summit is recommended.

4. Access-airline services

   - The establishment of airline services which are closely attuned to the needs of the market and which will maximise the efficient usage of limited accommodation capacity in key tourist centres.

5. Visas

- The abolition of visa requirements for bona fide Japanese tourists entering Australia and the relaxation of current stringent conditions governing working visas for Japanese tour guides'.

Business and trade

6.72 Another argument for introducing visa free travel arrangements is that it would boost business travel to Australia and improve Australia's trading links with other countries. In various submissions, it was suggested that the existing universal visa requirement is perceived as a barrier to business activity and trade. On this issue, the South Australian Minister for Tourism, the Hon. G. Ingerson, MLA, commented:

> In a recent visit to several countries in South East Asia the Premier of South Australia, the Hon. Dean Brown, MP, was alarmed to discover the strength of the resentment of business leaders towards the requirements that they apply for visas when they come to Australia. Some of those with whom he came into contact were unaware that people from all countries other than New Zealand need visas to enter Australia and therefore believe there is a racist element to these laws.[55]

6.73 In a number of submissions, it was noted that the requirement to obtain a visa prior to travel restricts the ability of business people to travel at short notice. Accordingly, it was argued that the visa requirement is a disincentive for conducting business in Australia, resulting in business being directed to countries which do not impose visa requirements.

6.74 It was suggested that introduction of visa free travel arrangements, even if on a selective basis, would benefit Australia's business and trade interests. DFAT, for example, commented:

> Visa free entry for business travellers from the USA, Korea, Japan, Singapore and the [European Union], for example, would assist the strengthening of links between Australian business and those major foreign markets and sources of investment. The expansion of trade in goods and services is facilitated by easy access to suppliers, markets, plants and offices and the removal of the requirement for visas would contribute to this end.[56]

55 Evidence, p. S205.

56 Evidence, pp. S579-S580.

6.75 DFAT also indicated that removal of visa requirements for at least some nationalities would be consistent with Australia's efforts to promote itself as a base for businesses operating in the Asia-Pacific region. DFAT noted that chambers of commerce and company officials have emphasised that the decision to establish a regional office in a particular country depends to a great extent on the removal of real and perceived obstacles to expeditious communication and movement between countries. In DFAT's view, visas are one such obstacle.[57]

6.76 From a similar perspective, the Northern Territory Government submitted that the introduction of visa free arrangements for South East Asian countries would complement its efforts to expand business and trade links with that area.[58]

6.77 Concerns about the impact of visas on business and trade also were raised in the 1994 report of the Pacific Business Forum of APEC. In that report, the Pacific Business Forum noted that while increased travel in the Asia-Pacific region is conducive to promoting regional trade and investment and directly or indirectly contributes to economic growth, difficulties still exist in travel procedures which increase the time and cost of travelling. The Forum stated:

> Visa requirements are a serious impediment, particularly for short business trips.[59]

6.78 In its subsequent report, the Pacific Business Forum recommended to APEC leaders the introduction of an APEC business visa by 1996 and complete visa free business travel within APEC by 1999.[60]

6.79 The recent committee of inquiry into the temporary entry of business people and highly skilled specialists (the Roach Committee) also recognised the need to facilitate the entry of business people to Australia. In its report, however, it recommended simplified and streamlined visa processes for temporary business entrants rather than removal of the visa requirement.[61] As noted in Chapter Four, the Government has introduced changes in response to that committee's recommendations.

57 Evidence, p. S579.

58 Evidence, p. S736.

59 Pacific Business Forum, Asia-Pacific Economic Cooperation, *A Business Blueprint for APEC*, October 1994, p. 11.

60 Pacific Business Forum, Asia-Pacific Economic Cooperation, *The Osaka Action Plan: Roadmap to Realising the APEC Vision*, APEC Secretariat, Singapore, 1995, pp. 21-22.

61 Committee of Inquiry into the Temporary Entry of Business People and Highly Skilled Specialists, *Business Temporary Entry-Future Directions*, August 1995, p. 5.

Bilateral relations

6.80 In terms of Australia's broader relationship with other countries, beyond economic considerations, contrasting views were presented about the impact of the universal visa requirement on bilateral relations and the likely impact if a selective visa free system were introduced.

6.81 DFAT noted that the universal visa policy can and does cause irritants in bilateral relations, particularly where countries grant Australians visa free entry. At the same time, DFAT commented:

> The Government's current visa policy has a number of advantages in terms of Australia's bilateral relations, perhaps the most significant of which is its non-discriminatory nature. Regional countries, some still mindful of Australia's former discriminatory policies in the 'White Australia' era, are assured that their nationals are treated in an even-handed fashion, with visa issue decisions completely free from racial undertones.[62]

6.82 Other witnesses suggested that the universal visa requirement creates a negative impression of Australia overseas, particularly in Asian countries, with consequential adverse implications for Australia's interests, particularly its economic interests. ITOA reported that some people with whom it has dealings regard Australia's visa system as 'evidence that the 'White Australia Policy' is alive and well'.[63] The Christmas Island Tourism Board indicated that the visa system creates 'ill feeling' among agents and tour operators who bring visitors to Christmas Island, with adverse implications for the development of investment and trade links, as well as friendship and trust between Australia and other countries.[64] The Northern Territory Government argued that the visa requirement detracts from Australia's image, portrayed overseas by the tourism industry, that it has a multicultural society and an easy lifestyle.[65] In a similar vein, the Western Australian Chinese Chamber of Commerce stated:

> Much time, effort and money has been spent in Asian countries to project a positive and friendly image of Australia. Yet, the visa application process can sometimes make the promotion of Australia as a friendly country in Asia ring hollow indeed.[66]

62 Evidence, p. S570.

63 Evidence, p. S221.

64 Evidence, p. S77.

65 Evidence, p. S406.

6.83 A number of witnesses suggested that introduction of selective visa free travel arrangements would bring Australia into line with the practice of its major trading partners and with the worldwide trend towards the freeing up of travel. In addition, it was argued that implementation of a selective visa free system would result in benefits for Australians travelling overseas, as countries which currently impose visas on Australian travellers purely on reciprocal grounds would remove their visa requirements if Australia offered visa free travel for their nationals.

6.84 In this regard, one concern expressed during the inquiry was that adherence to a universal visa arrangement could result in the imposition of a reciprocal arrangement which would require Australians travelling to any European Union destination to obtain a visa.[67] Currently, France and Spain are the only European Union countries requiring visas of Australians. In response to this concern, DIEA stated:

> There is nothing on the agenda that would see the European Union as a whole being forced to move to visas for Australians on the basis of two member countries requiring visas.[68]

6.85 Indeed, DIEA argued that Australia is not under any pressure from any country to vary its visitor visa arrangements.[69] DIEA indicated that while the policy of some countries to apply strict reciprocity in visa arrangements occasionally draws attention to Australia's visitor visa arrangements, that does not necessarily translate into any significant pressure from those countries for Australia to vary its arrangements.[70]

6.86 According to DIEA, because the universal visa requirement applies equally to all, it is less likely to generate bilateral relations problems than are visa free arrangements applying to selected countries. It noted that the universal visa system enables all nationals to be treated in the same manner at points of

66 Evidence, p. S230.

67 Evidence, p. S685.

68 Evidence, p. 1111; see also paragraph 2.53.

69 This claim might be questioned in the light of recent statements by a United States consular official. Those statements were made in reply to complaints by Australians having difficulties obtaining visas to the United States as a result of the closure of consular services brought on by the American budgetary dispute. The United States official stated that such difficulties could be avoided if a reciprocal visa free arrangement could be established with Australia.

70 Evidence, p. S625.

entry, with no separate entry channels in Australia for low risk/high risk travellers.[71]

6.87 DIEA also submitted that selective visa free arrangements can generate both goodwill and tensions. DIEA noted that while selective visa free arrangements can reflect the special status of recipient countries, thereby improving relations with those countries, the process for selecting countries will not always deliver a politically acceptable outcome. DIEA commented:

> Should the application of a formula differentiate between close neighbours, selective visa free arrangements may generate more problems than goodwill. Unfortunately, it seems that despite the application of measurable criteria to determine visa concessions, differences in treatment are frequently perceived as linked to discriminatory considerations based on socio-economic circumstances or ethnic background.[72]

6.88 DIEA noted that the visa issue could become sensitive for bilateral relations if, after establishing visa free arrangements, countries cease to satisfy relevant conditions, for example if a country's overstay rate increased considerably. In such situations there can be both external and domestic pressures to retain the visa free status of that particular country. In this regard, DIEA noted the recent United States experience, where pressure has been exerted to alter the visa waiver criteria in order to retain Italy and accommodate Ireland in the visa waiver program. In that situation, the pressure has been generated by domestic political considerations.[73]

6.89 Other witnesses also expressed concern about the potential difficulties which a selective visa free arrangement could create for Australia's bilateral relations. The ATC commented that it would be difficult to introduce visa free arrangements which included only certain Asian countries without causing offence to other countries in the region.[74] From a similar perspective, the Northern Territory Government commented:

> We are obviously concerned that any changes to the visa system do not discriminate against those countries with which we believe our economic future is very closely linked.[75]

71 Evidence, p S625.

72 Evidence, p. S625.

73 Evidence, p. S625.

74 Evidence, pp. 406-407.

75 Evidence, p. 706.

6.90 A representative of the Western Australian Chinese Chamber of Commerce, who is employed by a major bank operating in the Asian region, also cautioned against entering into selective visa free arrangements which would exclude particular countries in the Asian region. He stated that while it may make sense in the short term to enter into 'cosy' arrangements with certain countries in the region which have a good record of visitor compliance with entry conditions, in the longer term it may be detrimental to Australia's interests if other countries in the region were not included in such arrangements.[76]

6.91 DFAT, which ultimately suggested that consideration be given to the introduction of selective visa free arrangements, also indicated that such a change would have substantial implications in terms of Australia's bilateral relations. DFAT commented:

> While the 'White Australia' policy, which related to permanent residence rather than short-term visits, was abandoned several decades ago, the memory of Australia's discrimination in its entry policy on the basis of race and colour remains, especially among countries of Asia and the Pacific. In DFAT's assessment, a shift to a selective visa-free policy—which could be depicted as some by the re-emergence of 'White Australia' under another guise—runs the risk of damaging the close political and economic links with some regional countries which are vital to Australia's future.[77]

6.92 According to DFAT, just because selective visa free policies have been adopted by countries in the European Union and North America, it cannot be assumed that the introduction of a visa free system would be achieved easily in Australia. DFAT stated:

> These countries' historical experience is different from that of Australia. They do not carry the same historical baggage of entry policies that had been based on race or colour. And, more importantly, the risks to their vital regional bilateral relationships that might be associated with their short-term entry policies are not the same as those affecting Australia.[78]

6.93 In DFAT's view, Australia's geographic location means that issues such as visitor entry policy are likely to receive much closer examination in

76 Evidence, p 645.

77 Evidence, p. S583.

78 Evidence, p. S583.

neighbouring countries than would be the case for other countries. DFAT commented:

> This factor opens for consideration the risk that regional countries of very great significance to Australia which do not fit the selective visa-free criteria—and there will undoubtedly be some such countries—will see themselves as somehow having been downgraded in a way which is incompatible with Australia's political and economic priorities.[79]

6.94 DFAT indicated that implementation of a selective visa free system would need to be preceded by a carefully arranged program of bilateral consultations with countries not likely to be included. Those consultations would need to provide clear advice on the methodology used in determining which countries were eligible for visa free status. In this regard, DFAT stated:

> It is DFAT's assessment that, provided any policy change leading to a selective visa-free regime were soundly based on transparent objective criteria, implementation of the policy for those countries whose nationals are excluded from the scheme would create problems in only a few of our bilateral relationships, although several of these could be important regional neighbours.[80]

6.95 On this point, DFAT indicated that the criteria for selection of visa free countries is the key to limiting any damage to Australia's bilateral relationships. DFAT stated:

> . . . if the criteria were fully transparent, and it was clear that the system to be employed mirrored those which operate in so many parts of the world, the move to such a system would be in most cases accepted, without uncontainable damage to Australia's bilateral relationships.[81]

6.96 Other witnesses similarly argued that imposition of selective visa free arrangements would not be a source of serious friction in Australia's bilateral relations, as long as the selection of visa free countries was based on objective criteria, such as overstay rates. ITOA, for example, commented:

> ITOA simply does not understand the slavish importance attached to having a 'non-discriminatory' policy. Virtually every country in the world operates a 'discriminatory' visa policy . . . Leaving aside the multitude of international precedents, surely Australia could defend its policy of not requiring visas from citizens of particular countries simply because they have a good record of observing Australia's immigration laws i.e. have low overstay rates.[82]

6.97 ITOA argued that the higher percentage of visa rejections in some countries is defended on the grounds that objective criteria are applied. In ITOA's view, the same argument could be advanced to defend the establishment of selective visa free arrangements.[83]

6.98 In examining this issue, it was important for the Committee to have some understanding of which countries would be included in a selective visa free travel arrangement were such a system to operate in Australia. For this purpose, the Committee examined the overstay rates as at 30 June 1994 and selected those countries which had an overstay rate of less than 0.2 per cent. This was nominated as one of the criteria which could be used in determining which countries would be eligible for visa free travel. While the Committee recognises that this would not be the only criterion, it was useful to examine the countries which would need to be considered should a visa free travel arrangement be introduced. The countries coming within the 0.2 per cent overstay rate comprised:

Argentina	Hong Kong	Papua New Guinea
Austria	Italy	Saudi Arabia
Belgium	Japan	Singapore
Canada	Malaysia	South Africa
Czechoslovakia (so stated)	Malta	Sweden
Denmark	Mexico	Switzerland
Finland	Netherlands	Taiwan
France	North Korea	United Kingdom
Germany	Norway	United States of America

79 Evidence, p. S583.

80 Evidence, pp S582-S583.

81 Evidence, p. S577.

82 Evidence, p. S223.

83 Evidence, p. S223.

6.99 It should be noted that some of Australia's regional neighbours, including certain major trading partners and high volume markets for visitor arrivals, such as Indonesia, Korea, the Phillipines and Thailand, do not appear on this list. One European Union country, Greece, also is not included.

Cost of the visa system

6.100 The cost of maintaining the universal visa system also was raised as an issue for consideration by the Committee. It was suggested to the Committee that for countries which are a high volume source of visitor arrivals to Australia and which demonstrate low rates of visa rejection and visitor overstay, it is difficult to justify the maintenance of an elaborate and costly offshore visa processing infrastructure.

6.101 The Committee received limited evidence on the cost of maintaining offshore visa processing throughout the world. In its submission, DFAT commented:

> Maintenance of Australia's visa issue system offshore for virtually all visitors from all countries entails substantial costs to the taxpayer. Those primarily relate to the costs of personnel at overseas posts, both Australia-based and locally engaged, and investment in technology to achieve essential improvements in productivity. Office accommodation and utilities are also significant costs associated with the existing visa system.[84]

6.102 Figures provided by DIEA showed that its expenditure overseas on the visitor visa program has been increasing steadily. In 1991-92, DIEA spent $5.9 million on visitor visa processing overseas, including $1.4 million on Australia based staff posted overseas, $3.5 million on locally-engaged staff, and $947 000 on administrative expenses. In 1992-93, the expenditure increased to $7.6 million, comprising $1.6 million on Australia based staff, $5.2 million on locally-engaged staff and $745 000 on administrative expenses. In 1993-94, there was a further increase to $9.3 million, including $1.9 million on Australia based staff, $6.4 million on locally-engaged staff and $1 million on administrative expenses.[85]

84 Evidence, p. S573.

85 Evidence, p. S649.

6.103 Figures provided by DIEA also showed that the percentage of overall expenditure devoted to the visitor visa program also has been increasing. In 1991-92, the visitor program accounted for 18 per cent of DIEA's operational expenses overseas. This increased to 23 per cent in 1992-93 and 25 per cent in 1993-94.[86]

6.104 DFAT also provided an estimate of the cost of maintaining offshore visa processing. DFAT's estimate included the costs which it was incurring in undertaking visa processing activities at the 45 overseas missions to which DIEA officers were not posted at that time. According to DFAT, in 1993-94 the total overseas cost of processing non-migration visas, namely visitor and temporary entrant visas, amounted to around $35 million. This figure included DIEA expenditure. DFAT also noted that the cost of processing visitor visa applications is by far the fastest growing component in total overseas costs, rising by 28 per cent between 1991-92 and 1992-93 and by a further 23 per cent between 1992-93 and 1993-94.[87] In DFAT's view, this continuing growth in costs associated with offshore visa processing will place severe strains on resources at overseas posts.[88]

6.105 DFAT also provided an estimate of the average cost of issuing a visa overseas. It suggested that the cost could be as high as $11 per visa. Commenting on this figure, DFAT stated:

> Such a figure, multiplied by potentially 6.8 million tourist arrivals in 2000, represents a sum which deserves to be addressed seriously.[89]

6.106 There also are additional costs associated with the introduction of new technology, such as the electronic travel authority. No expenditure estimates on this were made available to the Committee.

6.107 DFAT indicated that the introduction of a selective visa free system would result in a substantial reduction in the capital and human resources needed overseas. While acknowledging there would be additional resource requirements in Australia under a selective visa free system, DFAT argued that the overall result would be substantial savings.[90] DFAT did not quantify the extent of those savings.

86 ibid.

87 Evidence, p. S574.

88 ibid.

89 Evidence, p. S592.

90 Evidence, p. S572.

6.108 DIEA, by contrast, indicated that any move to abandon offshore processing and bring it onshore would not be justifiable on resource grounds. DIEA stated:

> The savings which would flow from a partial relocation of border management on-shore are unlikely, in the short term, to offset the additional resources needed to mount an on-shore operation.[91]

6.109 In particular, DIEA noted that the current administrative arrangements, whereby Customs officers undertake both immigration and customs processing for arriving passengers, might have to be revised if visa free travel arrangements were introduced. DIEA indicated that the need may arise for separate customs and immigration inspection barriers to be established, as operate in the United States.[92]

6.110 As noted previously, DIEA also suggested that increased passenger clearance times for visa free arrivals would require either additional staffing resources at clearance points or require additional clearance infrastructure at entry points. In this regard, DIEA cited the experience of the United States in relation to its visa waiver pilot program.[93]

6.111 As noted in Chapter Two, a principal aim of the United States visa waiver pilot program was to reduce the substantial costs incurred as a result of offshore visa processing. The State Department estimated that it would have needed to spend around $175.5 million on offshore visa processing in the 1993 fiscal year if the visa waiver pilot program had not been introduced. While the program resulted in substantial savings for the State Department, the Immigration and Naturalization Service has required a fourfold increase in staffing resources at points of entry.

6.112 No specific estimates were provided to the Committee on the savings in overseas expenditure which would be achieved by introducing a selective visa free arrangement or the increased costs which would be incurred onshore.

Coping with future demand

6.113 A further argument for implementing a selective visa free system is that the existing system will be unable to cope with future demand for visitor visas. Various witnesses highlighted concerns in this regard, indicating problems which already are arising.

91 Evidence, p. S615.

92 Evidence, p. S615.

93 Evidence, p. S1217.

6.114 The ATC, for example, indicated that it regularly receives complaints from travel agents and wholesalers, particularly in Europe, concerning difficulties in obtaining visa application forms. According to the ATC, this does not leave the impression that Australia is keen to attract tourists.[94]

6.115 The ATC noted that particular problems have been experienced in the United Kingdom, where a telephone answering service was established to cope with the high volume of enquiries about visas being received. According to the ATC, long delays were experienced by persons waiting on the telephone, leading to a considerable increase in consumer complaints made to the ATC. Between 4 and 21 January 1994, for example, the ATC recorded 484 complaints in its London office.[95]

6.116 Problems also have been encountered in coping with demand for visitor visas in the United States. The ATC indicated that its helplines in the United States receive about 225 telephone calls a month specifically on visa issues. Many of those calls are from potential visitors who have not been able to get through to the Australian mission to request visa application forms or have their questions answered.[96]

6.117 In DFAT's view, the existing visa system will not cope with the anticipated growth in visitor arrivals without the allocation of further and significantly enhanced resources. Even with additional resources, DFAT indicated that future demand will place considerable strains on overseas issuing of visas. DFAT commented:

> By 2000, with the additional influx of visitors for the Olympic Games (and taking account of the flow-on thereafter as a result of the Olympic publicity), the burden and cost of processing and issuing over 7 million visas at Australia's overseas posts is a daunting project.[97]

6.118 From a similar perspective, the Department of Tourism indicated that, under the existing system, the increased demand for short term visitor visas will require either significantly increased resources to be devoted to visa delivery or significantly increased efficiency to cope with the sheer volume of prospective travellers. The Department of Tourism noted that there is increasing evidence that, in some markets, visa delivery is being placed under considerable strain to meet the growth in demand. It is aware that in markets such as the United States, the United Kingdom and newly developing markets in Asia,

94 Evidence, pp. S378-S379.

95 Evidence, p. S377.

96 Evidence, p. S380.

97 Evidence, p. S574.

prospective travellers are encountering difficulties in obtaining visa forms and having visas issued in a timely manner. The Department of Tourism commented:

> If efficient visa delivery is not provided to meet the demand, there is a very real danger that the visa requirement will cause considerable damage to Australia's tourism reputation as an attractive holiday destination and that increasing numbers of prospective visitors will choose one of Australia's competitor holiday destinations, where they do not have to comply with similar requirements (ie 'visa free—such as New Zealand or Singapore).[98]

6.119 The Department of Tourism, however, argued that while visa free arrangements may provide some benefits, it is not clear that these would exceed the benefits accruing from enhancements to the existing arrangements, particularly the benefits which technology can provide. The Department of Tourism suggested that it would be preferable to monitor progress in implementing more efficient visa arrangements and review that progress in two years time. The Department of Tourism stated:

> If insufficient progress has been made towards overcoming existing shortcomings, then options such as selective visa free would need to be considered at that time.[99]

6.120 DIEA agreed that the preferable option is to continue pursuing enhancements to the existing system. DIEA stated:

> Given the investment that Australia has made in the current visa/entry system and the likely costs of alternate arrangements, investment to build on that system is the most cost effective option for Australia. Continued refinement and development of the basic elements of the current system will preserve the off-shore entry screen to national advantage, while at the same time preserving the improving streamlined entry arrangements at Australian ports.[100]

98 Evidence, p. S683.

99 Evidence, p. S686.

100 Evidence, p. S626.

6.121 In response to suggestions that the risks of moving to selective visa free arrangements would be minimised by implementation of a trial in the first instance, DIEA stated that in reality 'there is no such thing as a trial'.[101] It intimated that it would be impractical and politically difficult to reimpose visa arrangements once they were removed.

Conclusions

6.122 Australia's emergence as a major world travel destination has presented significant challenges for those charged with the responsibility of managing the movement of people across Australia's borders. The principal challenge is to facilitate the entry to Australia of an increasing number of visitors while excluding those who threaten the interests of the Australian community.

6.123 In order to meet this dual challenge, immigration authorities progressively have changed the processes by which visitors are granted permission to travel to, enter and stay in Australia. The visa system for visitors no longer is predicated on the need to obtain detailed information on bona fides from all passengers. A significant proportion of prospective visitors now fill out abbreviated application forms and are no longer required to provide photographs with their applications. The electronic travel authority will do away with application forms altogether for certain visitors. In addition, for the majority of intending visitors, interviews are a thing of the past. Instead, the Migration Regulations now require particular applicants who come within a risk factor profile to provide fuller information in relation to their applications, leaving the majority to be assessed under simplified and expeditious processes.

6.124 Visa issuance has been modified and modernised. The widespread use of machine-readable passports and visas reduces errors in the collection and collation of data. Technology allows for automatic checking of all applicants against a database of known or suspected criminals and immigration offenders. Australia is at the cutting edge in the use of such technology for immigration purposes. Agency arrangements make visa issuance more accessible to passengers and a less visible part of the travel process. Agents note the passenger's details and transfer those details to DIEA, either electronically or by courier. DIEA assesses the application in the brief time that it takes to check the name and documentation against alert lists. As a result, the new visa arrangements for visitors are less of an irritant for travellers.

6.125 In light of these changes, the debate during this inquiry was focused mainly on whether immigration authorities have gone far enough in streamlining visitor entry processes, or whether they should take the further step of abolishing the visa requirement for all or selected visitors. A separate but no less relevant concern is whether the processes for scrutiny of visitors to

101 Evidence, p. 1242.

Australia have been downgraded to such an extent that they no longer provide sufficient protection against the entry of those who are likely to pose a risk to the Australian community.

6.126 In seeking to resolve these issues, the Committee was of the view that it is essential for Australia to retain an effective filter which facilitates the entry of genuine visitors, but protects against those who would be likely to pose a criminal, security or health risk to the community or offend against Australia's immigration laws. The fundamental question for the Committee was whether a universal visa system is necessary to deliver such a filter.

6.127 Clearly, the universal visa requirement, coupled with Australia's geographic position as an island continent, provides Australia with an important advantage in managing its borders. Australian authorities presently are able to obtain advance information concerning virtually all non-citizens arriving in Australia prior to their travel. This provides the opportunity for the early detection and exclusion from Australia of undesirable or unacceptable persons.

6.128 Another benefit of the visa system is that it eliminates the need to collect data about passengers at the border, thereby facilitating the passenger clearance process on arrival. If immigration assessments were to be carried out for the first time at the border rather than offshore, entry clearance officers would need to ascertain passenger identity details at the border and conduct relevant checks. There is no doubt that this would increase processing times. Delays are likely to arise particularly for people whose first language is not English. Such people comprise a growing proportion of visitors to Australia.

6.129 Offshore processing also reduces the incidence of people being turned around at the border. This is a significant benefit given that most passengers travel a long distance and outlay significant funds in order to visit Australia.

6.130 In addition, the visa system provides accurate data for use by various government agencies. Such information can assist in detecting and tracing visitors who engage in criminal activities or who overstay or breach their entry conditions. The Committee notes DIEA's advice that high quality data is available only by virtue of the existing visa system.

6.131 While recognising the benefits of the visa system, the Committee accepts that there are certain disadvantages associated with it. It is clear that the costs of offshore visa processing are substantial and are likely to increase significantly as demand for visitor visas grows over the next decade. There also is a perception, at least among some sections of the community, that visas are impeding tourism growth and creating a negative impression of Australia.

6.132 During the inquiry, it was asserted repeatedly by some tourism industry representatives that Australia was failing to improve its share of the international tourist market because prospective visitors were deterred from travelling to Australia by the inconvenience associated with obtaining a visa. The further claim was that countries which allow visa free travel or have visa

waiver arrangements were increasing their share of the tourist market at the expense of Australia.

6.133 One of the difficulties faced by the Committee was that the claims from the tourism industry were not supported by concrete evidence. The Committee requested but was not presented with any detailed information to show the extent to which visas are a motivating factor in a traveller's decision as to which travel destination is selected. Representatives of the tourism industry also were unable to explain why the number of visitors to Australia had grown at such an exceptional rate over the past decade if visas were such an important factor in the choice of travel destination. While they claimed that tourist growth would have been even greater without a visa requirement, again no substantive evidence was provided in support of that claim. Indeed, statistics provided by DIEA showed that in the 12 months to April 1994, visitor arrivals to Australia increased by 15.5 per cent compared to New Zealand's increase of 11.6 per cent. As for individual country figures, in the case of Japanese visitors, for example, the number arriving in Australia during that period totalled 686 671, compared to 141 646 arriving in New Zealand.

6.134 Further, the communique issued after the tourism summit held in Japan in October 1995 clearly indicated that visas are simply one matter requiring attention. Indeed, it was the last matter mentioned in the communique (see paragraph 6.71). Given that the communique noted a long list of issues which the tourism industry itself needs to address if tourism growth to Australia is to be encouraged, it was difficult for the Committee to accept that the visa requirement is a primary inhibitor of tourism growth.

6.135 Despite the lack of concrete evidence concerning the impact of visas on tourist growth, the Committee actively considered whether visa free travel arrangements, either for all visitors or visitors from designated countries, would be viable and would result in tangible benefits to Australia.

6.136 While a number of witnesses claimed that the introduction of visa free travel arrangements has contributed to tourism growth in countries which have implemented such arrangements, those claims could not be verified due to the selective and at times contrasting evidence available to the Committee. In relation to the United States, for example, some information was available concerning visitor growth rates following the introduction of its visa waiver pilot program. As noted in Chapter Two, the Under Secretary of Commerce for Travel and Tourism reported to a congressional committee that visitor arrivals from nine visa waiver countries had increased by 77.4 per cent between 1988 and 1993, compared with a general visitor growth rate of 49 per cent during that same period. However, no information was provided on the rates of visitor growth from the other 14 visa waiver countries. At the same time, the Under Secretary suggested that the United States was losing its share of the tourist market in certain countries not included in the program. He claimed, for example, that Korean visitors, presently not eligible for a visa waiver, were travelling to Australia and Canada in preference to the United States because of the ease with which they are able to obtain visas for Australia and enter Canada

without visas. As for New Zealand, the Committee was told that the New Zealand Tourism Board had a 'gut feeling' that visa free arrangements have contributed to tourism growth, but the Committee was not provided with statistical evidence in support of that claim.

6.137 While the evidence from the United States suggests that visa waiver arrangements can result in visitor growth, it was not possible to be conclusive on this point due to the limitations in the statistical and other evidence on visitor growth from visa free and non-visa free countries. It was not possible to ascertain with confidence the extent to which visa free arrangements might have contributed to any rise in tourist numbers, or the degree to which other factors may have influenced any increase. Given that countries which have implemented visa free arrangements are experiencing differing levels of visitor growth from various of the visa free countries, it is more than likely that there are a range of factors responsible for such growth.

6.138 As for the costs of the visa system, little evidence was available to the Committee on whether a selective visa free system would result in cost benefits or cost increases. A selective visa free system undoubtedly would result in savings in overseas resources devoted to visitor visa processing, particularly staffing resources. Various witnesses, however, argued that there would be a consequential increase in onshore costs that would exceed the offshore savings that might be made. It was suggested, for example, that longer processing times would arise at entry control points, requiring additional staff to handle the workload and possibly additional infrastructure at airports. While this was not quantified, it was considered significant that the Immigration and Naturalization Service in the United States has had a fourfold increase in staffing at airports since the introduction of their visa waiver pilot program.

6.139 It also was difficult to estimate whether visa free travel arrangements would increase the number of overstayers in Australia or the numbers applying for residence status on refugee, spouse or other grounds from within Australia. There also was little information on whether visa free arrangements would have any impact on the entry of criminals. Evidence from countries which operate visa free arrangements was inconclusive on these matters. In particular, while some witnesses suggested that New Zealand has not experienced any increase in overstay problems or visitor related crime since its recent introduction of visa free arrangements, no concrete data was available to support these claims.

6.140 On this point, the Committee was concerned that, even under current arrangements, there have been worrying instances of criminal elements gaining access to Australia. Visitor overstay also continues to be a problem, although total overstay numbers have been declining in recent years. In addition, there has been a continuing incidence of onshore asylum applications by visitors. These are matters which need to be taken into account in determining the future of the visitor visa system.

6.141 Attention also must be paid to Australia's bilateral relations. In this regard, contrasting views were put to the Committee about whether selective visa free travel arrangements would impact on Australia's relations with other countries, particularly if certain countries in our region were not included in such arrangements. Again, much of the evidence received in this regard was speculative. Advice from DFAT suggested that the potential damage to bilateral relations from implementing a selective visa free system could be contained if visa free countries were selected on the basis of transparent and objective criteria and provided that adequate consultations were undertaken with relevant countries. At the same time, the Committee heeded DFAT's warning that the decision to establish a selective visa free system could affect some of Australia's most important relationships in the region.

6.142 While a number of witnesses suggested that the experience of other countries should sway the Committee in favour of a selective visa free arrangement, the available evidence was limited. In particular, there was a lack of statistical evidence which would have allowed a proper assessment as to the impact of visa free arrangements in those countries which have adopted such arrangements.

6.143 During the inquiry, witnesses arguing in favour of selective visa free arrangements adopted by other countries did not take into account the particular circumstances of those countries. European Union countries, for example, may have relaxed their border controls, but have in place after entry controls, including hotel registration systems and identity cards for their own citizens and residents. As for New Zealand, it has the particular advantage that around 80 per cent of its visitors arrive via Australia and, therefore, have been screened through Australian entry processes.

6.144 Overall, there was little objective evidence concerning the likely impact of introducing visa free travel arrangements in the Australian context. In the Committee's view, this does not rule out the option of introducing such arrangements. However, any such decision requires careful evaluation and should be taken only if there is clear evidence which indicates that the change is warranted and will be beneficial. On this point, some Committee members were concerned particularly about the ramifications of adopting a visitor entry system which discriminates in favour of certain countries.

6.145 It also needs to be recognised that once the decision is made to implement visa free travel arrangements, it would be impracticable and politically untenable to reimpose visa requirements on any or all previously exempted countries. The experience of the United States, as evidenced in the congressional debates on the continuation and extension of its visa waiver pilot program, supports this view.

6.146 From the available evidence, it was not clear that visa free travel arrangements are the best option for Australia at the present time. The Committee is concerned particularly about the impact such arrangements would have on the timeliness of the passenger clearance process and on Australia's

bilateral relations. In addition, DIEA's recent changes to the visa system need to be given a chance to operate before a judgment can be made on whether those changes provide the optimum framework for managing visitor entry to Australia.

6.147 In the Committee's view, the debate should not get bogged down on the issue of visa versus visa free. Rather, the focus should be on ensuring that Australia has in place a visitor entry system which does not present as an inconvenience to travellers, either before they embark on their journey or upon arrival in Australia, and which maintains the appropriate safeguards to ensure that undesirable persons, including those who might be overstayers, are prevented from entering Australia. In the Committee's view, the fundamental changes to the visa system which are being introduced, including agency arrangements, advance passenger clearance and the electronic travel authority, appear to be a step in this direction.

6.148 DIEA's efforts in modernising and simplifying the visa process appear to be an important compromise and, in the Committee's view, address some of the tourism industry's concerns regarding the visa system. From the evidence received by the Committee, those concerns had more to do with the inconvenience of obtaining a visa than with the principle of having a visa. Many of the changes being implemented by DIEA are aimed at creating a more efficient administrative process for visa issuance and thereby overcoming the inconvenience for visitors when they make their decision to travel to Australia and when they arrive in Australia. In particular, it is anticipated that the electronic visa issuance process will be as simple as making an airline or hotel reservation and will be available to a large percentage of visitors. It also is hoped that, after the initial capital outlay, the electronic travel authority should be inexpensive to operate and will constitute an expeditious and invisible visa process. At the same time, the electronic arrangement should retain the benefits associated with the receipt of advance information about visitors. It is hoped that the electronic travel authority, coupled with the broadening of agency arrangements and the introduction of advance passenger clearance, will strike an appropriate balance between the need to facilitate travel and maintain appropriate safeguards to protect the interests of the Australian community.

6.149 As these initiatives have been devised only recently and are being implemented progressively, it is unclear whether DIEA's expectations concerning their operation will be met. In the Committee's view, it would be imprudent to entertain any decision about the introduction of visa free travel arrangements before there is an opportunity to assess the outcomes arising from the introduction of agency arrangements, advance passenger clearance and the electronic travel authority. While the Committee is not recommending the introduction of visa free arrangements, it does not rule out the possible introduction of such arrangements in the future should an appropriate assessment of the revised visa arrangements show that they are not achieving the outcomes which are anticipated or desired. On this point, some Committee members remained unconvinced about the appropriateness of introducing

selective visa free arrangements which would discriminate in favour of particular countries.

6.150 The Committee therefore concludes that a parliamentary inquiry into Australia's revised visitor visa arrangements be established to report by the end of 1997. The parliamentary committee undertaking that inquiry should assess the outcomes of the revised visa arrangements, including the operation of agency arrangements, advance passenger clearance and the electronic travel authority. Its principal task should be to determine whether those arrangements are achieving the objectives of facilitating travel, particularly in the lead up to the Sydney Olympic Games, safeguarding the interests of the Australian community, and allowing visitor access on a non-discriminatory basis. In this context, it also should determine whether visa free travel arrangements would provide a preferable visitor entry system for Australia.

6.151 To assist with the inquiry, detailed objective information needs to be collected which will allow for a proper assessment of the new visa arrangements to be made. DIEA should collect data on the extent to which visitors comply with Australia's immigration laws after their arrival in Australia. This compliance data should allow for the particular identification of those visitors who obtained their visas by way of agency arrangements or the electronic travel authority. This will enable an assessment to be made on the extent to which streamlined checking processes are impacting on levels of visitor overstay.

6.152 DIEA, in consultation with law enforcement agencies, also should collect data on the extent to which visitors engage in criminal or crime related activity after entry to Australia. Again, in this data there should be a capacity to identify those visitors who obtain visas through agency arrangements or by way of the electronic travel authority. This will enable a proper assessment to be made on the extent to which streamlined checking processes are impacting on the entry to Australia of criminals and their associates. In this regard, in Chapter Seven the Committee also has proposed that the Government pursue vigorously the transfer of improved criminal intelligence information with other countries.

6.153 DIEA also should undertake a full cost analysis of the revised visitor visa arrangements, detailing all relevant costs associated with maintaining offshore visa issuance, including infrastructure, agency and staffing costs. An attempt also should be made to quantify the cost savings offshore and the additional costs onshore which would arise were visa free travel arrangements to be implemented.

6.154 In addition, DIEA, in consultation with Customs, should collect detailed statistics on passenger processing times and associated costs, as well as data on whether there is a correlation between visitors who are processed under the streamlined visa arrangements and visitors who breach Australia's customs requirements

6.155 Data also should be sought from comparable overseas countries which have introduced visa free or visa waiver arrangements to allow an adequate analysis of such arrangements to be undertaken. Of particular relevance would be any information on the impact visa free arrangements have had on visitor growth rates, passenger processing times and costs, visitor overstay rates and the numbers of visitor asylum claimants.

6.156 Further, information should be collected from overseas on the visitor entry arrangements applying in relation to the Atlanta Olympic Games and other major sporting events. This will be necessary to allow for the parliamentary inquiry to evaluate the type of visitor arrangements which will need to be in place to manage visitor entry during the Sydney Olympic Games.

6.157 At the same time, if the tourism industry is to advance its arguments for further modification of the visitor visa arrangements, it should collect, in preference to anecdote, objective information on the factors which influence levels of visitor growth to Australia. It should establish, on the basis of that information, the significance of visas in a traveller's choice of destination.

6.158 In the interim, it is crucial that DIEA press ahead with its streamlining and improvement of visa issuance processes to ensure that, for the traveller, the processes are as invisible and efficient as possible. In this regard, DIEA should take account of the Committee's recommendations for enhancing visitor entry detailed in Chapter Seven.

Recommendations

6.159 The Committee recommends that:

1. as a priority, the Department of Immigration and Ethnic Affairs streamline visa issuance processes to ensure that the visitor visa arrangements operate efficiently and with minimum inconvenience to visitors. This should include expanded arrangements for visa issuance, increased use of advance passenger clearance and widespread implementation of the electronic travel authority;

2. a parliamentary inquiry into Australia's revised visitor visa arrangements be established to report by the end of 1997. The parliamentary committee undertaking that inquiry should assess the operation and outcomes of the revised visitor visa arrangements, including agency arrangements, advance passenger clearance and the electronic travel authority. The committee should determine whether those arrangements are achieving the objectives of facilitating travel, particularly in the lead up to the Sydney Olympic Games, safeguarding the interests of the Australian community, and allowing visitor access on a non-discriminatory basis. The committee also should determine whether visa free travel arrangements would provide a preferable visitor entry system for Australia;

3. to enable a proper assessment of Australia's visitor entry arrangements within two years, the Department of Immigration and Ethnic Affairs, in consultation with other relevant Commonwealth agencies, collect a range of objective data necessary for such an assessment, including:

- **visa data which identifies the number of visitors issued with visas through agency arrangements or who arrive in Australia on an electronic travel authority;**
- **data on visitor overstay rates and associated compliance costs, including for overstaying visitors issued with bridging visas. This compliance data should identify the number of such visitors who were issued with visas through agency arrangements or who arrived in Australia with an electronic travel authority;**
- **data on criminal and crime related activity by visitors after arrival in Australia, again with the capacity to identify the number of such visitors who were issued with visas through agency arrangements or who arrived in Australia with an electronic travel authority;**
- **data on passenger processing times and associated costs, focusing particularly on any impact which the electronic travel authority may have on passenger processing at entry points;**
- **data on any correlation between visitors who are issued with visas through streamlined processing procedures and visitors who breach Australia's customs laws;**
- **a full cost analysis of operating the visitor visa system, with details of infrastructure and staffing costs;**
- **an analysis of cost savings offshore and additional costs onshore which could be anticipated under a visa free or selective visa free entry regime;**
- **similar statistical information on the operation and outcomes of visa free arrangements in comparable overseas countries; and**
- **information on the visitor arrangements introduced overseas for the Atlanta Olympic Games and other major sporting events; and**

4. to assist in evaluating the impact of the visitor visa system on tourism to Australia, the tourism industry should collect objective information on the factors influencing levels of visitor growth to Australia and, on the basis of that information, establish the relevance of visas in a traveller's choice of destination.

Chapter Seven

ENHANCING VISITOR ENTRY

Introduction

7.1 In Chapter Six, the Committee has recommended that a parliamentary inquiry be established to assess the revised visitor visa arrangements, including agency arrangements, advance passenger clearance and the electronic travel authority, and report by the end of 1997. As a consequence, for at least another two years, visitors will continue to require a visa in order to travel to, enter and stay in Australia. For this reason, it was important for the Committee to determine whether the process for obtaining visitors visas is operating as efficiently and effectively as possible.

7.2 A diverse range of concerns was raised in submissions and at public hearings regarding the operation of the visitor visa system, including the administrative processes for visa issue, the screening and assessment of visa applicants, and the conditions attaching to visas. In this chapter, the Committee considers the concerns and deficiencies identified to it and outlines its proposals for improving the efficiency and effectiveness of Australia's visa system for visitors.

Visa delivery

7.3 During the inquiry, a number of witnesses emphasised the importance of an efficient visa delivery service. As the Department of Tourism stated:

> If Australia is to maintain a universal visa system, it should be a system which delivers visas efficiently, in a timely manner and without excessive cost (either financial or in time and effort) to prospective visitors.[1]

7.4 As outlined in Chapter Five, DIEA has implemented various measures over the last decade to improve the efficiency of its visa delivery service and to cope with the growing demand for visitor visas. These have included:

- increased use of information technology systems to expedite visa processing;

---

1 Evidence, p. S684.

- adoption of risk management techniques so as to limit detailed scrutiny of visa applicants to those who are considered public safety risks or likely to breach immigration laws;
- introduction of agency arrangements to increase the outlets for visa issuance; and
- development of the electronic travel authority to streamline the visa application and issuance processes.

7.5 According to DIEA, these initiatives have resulted in a significantly improved visa delivery service. DIEA commented:

> The computerisation of visa operations off-shore has on average produced productivity gains of the order of 40% with significantly higher productivity in high volume/low risk posts. From the client perspective it has produced levels of service that could not have been contemplated under the prior manual system.[2]

7.6 Other witnesses agreed that there have been noticeable improvements in visa delivery as a result of initiatives adopted by DIEA. Tourism Victoria, for example, stated:

> The changes made by the Department would seem to have had an effect on service quality as according to Tourism Victoria's international office managers, there are now fewer complaints about the system than there have been in the past.[3]

7.7 The ATC acknowledged the increased client orientation of visa delivery services. The ATC commented:

> . . . years ago, if you applied for a visa, the attitude may well have been to keep somebody out of the country; the attitude now is how we can help the process of increasing tourism to Australia. In that sense, it is customer focused rather than internally focused . . . They are taking pro-active steps to make the whole process much simpler and much easier.[4]

2 Evidence, p. S604.

3 Evidence, p. S155.

4 Evidence, p. 367.

7.8 At the same time, various witnesses highlighted continuing difficulties in relation to visa delivery, which they claimed have the potential to harm Australia's efforts to generate increased tourism. These are discussed in the sections which follow.

Access to visas

7.9 In various submissions, it was suggested that some prospective visitors to Australia experience difficulties in accessing visitor visas. The problems identified to the Committee included:

- prospective visitors unable to get through to an Australian mission to request visa application forms or to have their queries answered;
- prospective visitors left waiting in telephone answering queues;
- travel agents unable to obtain sufficient numbers of visa application forms; and
- travel agents having inadequate knowledge of and inadequate information about Australia's visa procedures.

7.10 According to the Department of Tourism and the ATC, such problems are evident particularly in large volume markets, such as the United Kingdom and the United States, and in emerging Asian markets, such as Korea. In their view, if these problems are not addressed, then there is a substantial risk that Australian tourism will suffer. The Department of Tourism stated:

> If the ability to deliver visas efficiently does not keep pace with demand, the requirement for visas may operate against Australia's tourism interests as prospective visitors become frustrated or discouraged with the administrative difficulties encountered in getting a visa.[5]

7.11 The ATC considers that it is of primary importance that visa application forms be more readily available. In this regard, the ATC noted that it has been working with DIEA to have visa application forms inserted in the ATC's travellers' guides on Australia, which have an annual print run of around 2.5 million copies. Recently, application forms have been inserted in the travellers' guide provided to prospective visitors in the United Kingdom. The ATC wants this practice to be adopted for the travellers' guides which it issues throughout the world.[6]

5 Evidence, p. S682.

6 Evidence, p. 402.

7.12 On this point, the Committee is aware that certain independent publications, such as *Australian Outlook*, also contain information on visitor visas. In addition, DIEA advised that visa information and visa application forms now are available on the Internet.

7.13 A separate suggestion from the ATC was that the issue of consulate opening times should be examined. The ATC commented:

> . . . we believe that the service provided by the consulates should be more proactive with opening hours that are more in tune with normal business practices and a 24-hour answering service.[7]

7.14 On a related issue, the ATC noted that while agency arrangements have been highly successful in meeting the needs of the Japanese market and relieving the pressure on DIEA's normal visa issuing procedures, a number of Japanese consumers seem to be unaware of such arrangements and continue to visit the Australian Embassy in order to lodge visitor visa applications. According to the ATC, increased information about and promotion of agencies as alternative visa issuing outlets is required.[8]

7.15 With regard to agency arrangements, the Tourism Task Force suggested that the network of agencies involved with visa issuance should be extended. It stated:

> Travel agencies associated with major airlines and companies, such as American Express and Thomas Cook, would similarly be ideal to serve as authorised outposts.[9]

7.16 Another suggestion, made in a confidential submission, was to introduce an alternative form of agency arrangement using the services of a private contractor. Under the proposal, a private contractor would be engaged by DIEA to distribute visa application forms worldwide. Prospective visitors could obtain an application form by contacting a toll free 008 telephone number. Couriers would be used to forward application forms to clients and to return the completed forms to a distribution centre. The information on the application form would be transmitted by computer to DIEA for processing and, once approval was given by DIEA, the visa would be couriered to the applicant. It was argued that such a service would relieve the pressure on existing visa processing outlets by providing visa applicants with an easily accessible alternative source for visa issuance.

7 Evidence, p. 370.

8 Evidence, p. S376.

9 Evidence, p. S118

Conduct of staff at overseas missions

7.17 The conduct of staff at overseas missions, particularly locally-engaged staff, also attracted some criticism in submissions. Various claims were made, on the basis of anecdotal evidence, that some locally-engaged staff have been unfriendly, unhelpful and obstructionist.

7.18 The Committee was told that some visa applicants are required to visit an Australian mission several times before they can obtain a visa because some embassy staff fail to give correct or complete information. Others suggested that certain embassy staff do not make an effort to contact or assist applicants who unintentionally have used the wrong application form or provided insufficient information in support of their applications.[10]

7.19 The Western Australian Chinese Chamber of Commerce indicated that it had received various complaints about the conduct of locally-engaged staff at a variety of Australian missions overseas. It stated:

> The complaints were about rudeness, a lack of cooperation, a lack of initiative and a lack of helpfulness.[11]

7.20 The Federation of Indian Associations of Victoria alleged that at Australian consular offices in India, Indians are treated with 'utmost disrespect and indignity by the Consular/Commission staff who include local Indian personnel hired for the purposes'.[12] The Federation claimed:

> Staff are bullies and their actions almost always [are] quite brutal and boorish towards Indian men, women and children who queue for days to get within talking distance of the staff.[13]

7.21 In response to these specific claims, DIEA stated:

> The Principal Migration Officer in New Delhi has responded to this complaint by advising his general view that locally engaged staff handle an often difficult public with remarkable equanimity given the manifold pressures they are subject to and the fact that they are

10 Evidence, p. S161.

11 Evidence, p. 635.

12 Evidence, p. S91.

13 Evidence, p. S91.

sometimes subject to some rudeness by clients who demand preferential treatment.[14]

7.22 DIEA indicated further that staff from time to time are required to be firm, but not rude, in explaining to clients that the work of the immigration section is governed by regulatory and legislative provisions, and that the onus rests with the client for completion of the application in the detail required.[15]

7.23 A more serious allegation made during the inquiry was that locally-engaged staff have been involved in corrupt practices at certain overseas missions. It was alleged that visa applicants have had to bribe locally-engaged staff in order to access the particular missions for the purposes of lodging their visa applications. A representative of the Federation of Indian Associations of Victoria claimed that people waiting outside Australian consulates in India have had to pay local guards to get into the consulate in order to lodge their visa applications.[16]

7.24 In response, DIEA indicated that it would be prepared to investigate such allegations if it could be provided with some specific details of the alleged instances of bribery and some evidence to support the allegations. DIEA noted that it had consulted with the Principal Migration Officer in New Delhi who advised that there are a number of factors which mitigate against bribery. First, the guards are under the supervision of the High Commission security officer. Secondly, all persons entering the gate are given a number taken from a ticket dispensing machine. An outside monitor shows clients in the outside waiting area when their number is approaching. Clients are called to the counter in strict chronological order. According to DIEA, the Principal Migration Officer in New Delhi also advised that in the two years that he had spent at the post, not a single client had alleged over the counter that they had had to pay money to gain entry to the High Commission.[17]

7.25 On the broader issue of staff conduct, the ATC indicated that, in its visitor satisfaction studies, one of the key attributes often mentioned about Australia is the friendliness of its people. The ATC commented:

> If Australia is to retain this attribute then it is essential that all Embassy and Consulate staff involved in the visa process recognise the importance of creating a favourable impression.[18]

14 Evidence, p. S1211.

15 Evidence, pp. S1211-S1212.

16 Evidence, pp. 334-335.

17 Evidence, p. S1212.

18 Evidence, p. S379.

7.26 On this point, DIEA noted that all immigration officers receive cross-cultural awareness training prior to being posted overseas. DIEA also indicated that staff, including locally-engaged staff, are trained and expected to conduct themselves in a professional and courteous manner at all times in their dealings with clients.[19]

Timeliness of visa issuance

7.27 Visa processing times also were a source of complaint. Tourism Council Australia, for example, claimed that while processing times have improved in a number of locations, delays remain evident in Asian countries and emerging tourism markets.[20] Various other witnesses made claims to the Committee in this regard. The ATC noted that while many missions in fact issue visas within 30 minutes, it appears that these facilities are not adequately publicised and thus many prospective travellers have negative perceptions about visa processing.[21]

7.28 As indicated in Chapter Five, DIEA provided information to the Committee which indicated that most overseas posts issue visas immediately or within 24 hours to applicants applying in person and within 24 hours to people applying by mail. Statistics provided by DIEA showed that as at June 1994:

- 35 out of 47 DIEA posts issued visas either immediately or within 24 hours to people applying in person;
- 28 DIEA posts processed applications made by mail within 24 hours;
- 32 out of 38 non-DIEA posts issued visas either immediately or within 24 hours for people applying in person; and
- 24 out of 25 non-DIEA posts which received applications by mail processed them immediately or within 24 hours.

7.29 In relation to more recent statistics, it was noted in DIEA's *Annual Report 1994-95* that most visitor visas are issued within 24 hours of the application being received at the post.[22]

7.30 DIEA suggested that Australian visa processing times compare favourably with those provided by other countries. For example, DIEA stated that in Seoul, Korea, Australia issued most visas within 24 hours and provided

19 Evidence, p. S1212.

20 Evidence, pp. 766-767.

21 Evidence, pp. S379-S380.

22 DIEA, *Annual Report 1994-1995*, Australian Government Publishing Service, Canberra, 1995, p. 70.

on-the-spot visa issue where requested. This compared to a processing time of three weeks for the United States and no on-the-spot service. The Australian High Commission in Hong Kong provides on-the-spot visa issue in approximately 20 per cent of cases, with another 60 per cent being processed within 2 days. By contrast, the United States has a turnaround time of 15 days, Canada has a turnaround time of roughly 3 days and New Zealand approximately 4 days.[23]

Conclusions

7.31 The Committee agrees with the view, put to it in a variety of submissions, that if Australia is to retain its visa requirement for all visitors, then the processes for issuing visas must operate efficiently and expeditiously. In this regard, the Committee welcomes the range of initiatives which DIEA has implemented over the past decade to improve access to and the timeliness of visa issuing procedures. In particular, the investment in new technology and the expansion of visa issuing outlets through the introduction of agency arrangements have assisted DIEA to deal with the substantial increase in demand for visitor visas and make visa issuing more accessible and less time consuming.

7.32 Despite these developments, it appears that some problems continue to be encountered in meeting demand for visitor visas, notably in certain countries which are high volume and emerging sources of visitors to Australia. Those problems include difficulties in accessing information about visas and obtaining visa application forms, coupled with significant demand for visitor visas placing pressure on visa processing at overseas posts. On the basis of the information provided to the Committee, it was difficult to gauge the extent and frequency of the problems with any accuracy. Nevertheless, the evidence was sufficiently compelling to suggest that visa delivery services require further improvement. As noted in Chapter Six, DIEA itself recognised the need for further improvement if future demand for visitor visas is to be met. Of course, it is not only DIEA which needs to direct effort in improving services for prospective visitors to Australia. The tourism industry also needs to ensure better and wider dissemination of information concerning the requirements for visiting Australia.

7.33 On the issue of attracting prospective visitors to Australia, the Committee notes that the Australian Government invests significant resources in maintaining an Australian presence overseas. Some of those resources are directed to consular activities, some to immigration related activities and, relevantly, some to promotional activities undertaken by government tourism agencies. Information provided to the Committee suggests that better coordination between the various government agencies operating overseas is necessary to ensure that the effort devoted to attracting tourists to Australia is

23 *Evidence*, p S623.

not diminished by the inability of prospective visitors to access information about visas and to obtain visa application forms.

7.34 In particular, DIEA should liaise with the ATC and State and Territory tourism offices to develop improved strategies for providing information about visa requirements and for distributing visa application forms to travel agents and prospective visitors. Those strategies should involve the use of relevant government and private sector agencies to ensure the widest possible distribution of visa information and application forms to prospective visitors to Australia.

7.35 DIEA also should explore opportunities for expanding the visa issuing network. While agency arrangements have operated successfully in the Japanese market and are being established in a variety of countries, such arrangements can be of limited effectiveness in countries such as the United States and Canada, where Australian posts are geographically remote for many prospective visitors and demographics make it difficult to cover the potential tourist market. Accordingly, the Committee considers that DIEA should not limit itself to the agency arrangement concept in developing more efficient and expeditious visa delivery processes. Other alternatives, such as using a private contractor to distribute visa information and forms, establishing an international toll free telephone number to answer visa queries and arrange for distribution of visa forms, and maximising the use of technology such as the Internet should be considered actively and expanded upon by DIEA.

7.36 As for complaints about the conduct of staff at overseas missions, the Committee was not in a position, nor was it the role of the Committee, to make any findings on individual complaints. The Committee, however, notes the advice from various tourism industry organisations that, over the past few years, DIEA has placed great emphasis on improving the client orientation of its visa delivery services, with a consequential improvement in those services. Clearly, DIEA has recognised that it has a crucial role to play in facilitating visitor entry and thereby in developing an important Australian industry.

7.37 It is, of course, important to remember that contact with an Australian overseas mission often gives prospective visitors their first impression of Australia. In this regard, the Committee notes that the limited facilities in waiting areas in certain Australian posts can provide a poor impression to prospective visitors. While this has attracted some criticism from tourism industry representatives, particularly in relation to high volume tourist posts, concerns of this nature are not limited simply to those posts which process large numbers of visitor visas. It must be recognised that any expansion of overseas facilities would entail significant resource expenditure. In the Committee's view, as noted above, the preferable option is to expand the alternatives for visa issue as appropriate.

7.38 DIEA also should continue to ensure that all staff involved with delivery of visa services are aware of the importance of creating a positive impression of Australia when dealing with any prospective visitor. This should be reinforced in the training courses already being conducted for Australia based and locally-engaged staff. Given recent indications that there is likely to be an increase in the ratio of locally-engaged staff employed at overseas missions compared with Australia based staff, the need to ensure appropriate training is of particular importance.

7.39 As for complaints concerning the visa process, the best way to deal with any such complaints is to have in place an internal complaints facility. This should include a complaints form, which should be made widely available, including in overseas missions. Such a complaints form can be used by visa applicants or their representatives to lodge formal complaints concerning instances of unprofessional conduct, including allegations of corruption, by staff involved in the provision of visa services at Australian missions overseas, be they Australia based or locally-engaged staff. Any complaints which are lodged should be considered and, where appropriate, acted upon by DIEA's Central Office. This complaints mechanism must not form the basis for statutory review of any visa decision which is made.

Recommendations

7.40 **The Committee recommends that:**

5. the Department of Immigration and Ethnic Affairs liaise with the Australian Tourist Commission and State and Territory tourism offices in developing strategies for improved access to and dissemination of information about visa requirements, as well as increased availability of visa application forms for prospective visitors to Australia, particularly in high volume and emerging tourist markets. Those strategies should involve the use of relevant government and private sector agencies to ensure the widest possible distribution of visa information and application forms to prospective visitors to Australia;

6. as a means for expanding the visa issuing network, the Department of Immigration and Ethnic Affairs actively consider and expand the use of alternatives to the existing agency arrangements including, for example, use of private contractors for visa application form distribution, introduction of an international toll free telephone service for use by prospective visa applicants, and maximum use of technology such as the Internet;

7. the Department of Immigration and Ethnic Affairs ensure that in training courses conducted for staff at overseas missions, including Australia based officers and locally-engaged staff, particular emphasis is placed on the importance of creating a positive impression of Australia when dealing with prospective visitors to Australia; and

8. the Department of Immigration and Ethnic Affairs establish an internal complaints facility, including a complaints form distributed widely to Australian overseas missions, for use by visa applicants or their representatives to report instances of unprofessional conduct by staff involved in the delivery of visa services at Australia's overseas missions. Any complaints made through this facility should be considered and, where appropriate, acted upon by the Department's Central Office, but must not form the basis for statutory review of a visa decision.

Visa assessment

7.41 Various issues relating to the assessment of visa applications received attention during the inquiry.

Allegations of discriminatory and arbitrary practices

7.42 In some submissions, it was claimed that decision makers base their assessment of visa applications on the appearance of applicants and stereotypes about the behaviour of people of particular nationalities, age groups or marital status. ITOA, for example, stated that assessment using these factors results in 'arbitrary' decision making:

> Applications for visas are subjectively assessed. A newly married couple that do not have permanent jobs, a person with long hair and what is considered to be unkempt appearance, a recently graduated student or a female Asian citizen aged between 18 and 40 may each be singled out as a potential problem.[24]

7.43 Others suggested that decision makers discriminate against applicants from particular countries such as India, Thailand, Malaysia and the Philippines. It was claimed that those applicants are refused visas regardless of the information they provide in support of their bona fides. The Federation of Indian Associations of Victoria, for example, asserted that this practice was evident in relation to the assessment of young, single Indian applicants. The Federation stated:

> They are perceived as potential lawbreakers and their fate is sealed either at the first interview or on a paper assessment of their application forms . . . Even though they furnish all possible evidences and fulfil migration office requirements . . . their application is treated dogmatically and with contempt and a refusal normally

24 Evidence, p S219.

follows . . . This form of repressive migration law discriminates actively against our ethnic community.[25]

7.44 Allegations of discriminatory decision making practices also were prevalent in relation to close family visitor applicants. The Federation of Ethnic Communities' Council of Australia (FECCA), for example, stated:

> Discriminatory practices or undue harsh requirements have also been expressed with regard to visitor applicants from countries such as Malaysia, Bangladesh and India . . . it has been claimed with regard to family relative visitors in particular those who have made regular short term visits (ie up to three months) that their bona fides are questioned, supporting references and credentials not accepted and intrusive requests made in relation to assets they and their sponsors or relatives in Australia possess.[26]

7.45 In relation to bona fides assessment of close family visitor applicants in particular, a number of community associations criticised DIEA's past use of Form 77, *Visitor Support and Maintenance Undertaking*, which DIEA indicated is no longer in use. The form provided for a person or 'nominator' in Australia to agree to provide support and maintenance for a visitor visa applicant, generally where the applicant was unable to satisfy the decision maker that he or she had adequate funds for personal support during his or her period of stay.[27]

7.46 Among other things, Form 77 sought detailed information about the 'nominator', including:

- number of dependents;
- housing arrangements;
- employment details;
- gross weekly income;
- usual weekly expenses;
- major assets;
- any access to social security payments, other than family payments, in the previous 12 months;

25 Evidence, p. S92.

26 Evidence, p. S240.

27 The form also was used in relation to unaccompanied minors who sought to visit Australia.

- any debts to the Commonwealth;
- any previous undertakings, maintenance guarantees or 'assurances of support'; and
- any criminal convictions.

7.47 Form 77 also required the 'nominator' to make certain declarations including the following:

> I understand that where benefits are granted by any Australian Government or instrumentality to a person covered by this Undertaking, during the period for which the Undertaking is given, I will repay the funds so paid.
>
> I will ensure that my nominee/s abides by their visa conditions and I will be responsible for their departure from Australia on or before the expiry of the period of authorised stay.
>
> I understand that I will be liable for any costs, including detention and travel costs, if my nominee/s is subject to deportation from Australia for any reason.
>
> I consent to the disclosure of the information to other government departments and agencies.

7.48 Many community organisations argued that Form 77 was intrusive and made unfair and unnecessary demands of nominators. VIARC, for example, stated that 'the statutory undertaking imposes potentially onerous requirements, which have no legislative basis'.[28] FECCA expressed concern about how the information provided by nominators could be used.[29]

7.49 Form 77 has been replaced by Form 48R, which is used for higher risk applicants. That form advises that applicants who are relying on support from relatives or friends in Australia in order to meet the 'adequate funds' criterion should arrange for evidence of that support to be forwarded to the relevant overseas post. Form 48R suggests that friends or relatives include details of the proposed visit, how long they expect the applicant to stay, the plans which have been made for the visit and whether they have previously sponsored a visitor to Australia. It also notes that the visa officer will advise the applicant if the evidence provided is considered inadequate.

28 Evidence, p. S204.

29 Evidence, p. S241.

Conclusions

7.50 The Committee was concerned about allegations made during the inquiry of decision makers acting in an arbitrary and discriminatory manner when assessing certain visitor visa applicants. DIEA must ensure that discrimination does not arise within the visa issuing process.

7.51 Those making allegations of discrimination did not provide any specific evidence beyond anecdote to support their claims. Essentially it was asserted that DIEA officers proceed subjectively by singling out particular visa applicants for close investigation because of the applicant's personal circumstances or demeanour. Those making the allegations stated to the Committee that consideration of such factors amounted to arbitrary decision making and should be irrelevant to any decision concerning a visitor visa.

7.52 As indicated earlier in the report, visitor visa applicants are required to show that they intend only to visit and have sufficient means to support themselves during their stay. In evaluating whether an applicant satisfies these criteria, immigration officers are required to consider the applicant's personal circumstances in his or her home country, as well as the applicant's history in abiding by entry conditions during any previous visit to Australia. In the Committee's view, it is appropriate for immigration officers to take such matters into account when investigating or deciding on visitor visa applications. Given that a smaller percentage of visitor visa applicants now are being interviewed personally, it also is essential that immigration and customs officers still have the opportunity to evaluate a visa applicant's credibility at the point of entry to Australia.

7.53 It is important to recognise that it is an established, well-founded, worldwide immigration practice to take a visa applicant's personal circumstances and credibility into consideration when assessing his or her claims for entry. It also should be noted that evaluations based on such indicators are not confined simply to immigration decision making. In Australia's general legal and trial system, for example, an individual's appearance and demeanour can be relevant indicators of his or her credibility.

7.54 A person's demeanour and attitude can be revealing indicators of his or her financial means and travel intentions. As such, they can be relevant to a determination on whether the prospective visitor has satisfied the criteria for entry to Australia.

7.55 As for the complaints concerning Form 77, the Committee notes that this form now has been abolished. Further, Form 48R currently in use is less prescriptive than Form 77 in regard to the type of evidence which friends or relatives should provide in support of visitor visa applications. On this point, the Committee endorses the notion that in certain markets which show a high risk of visitor overstay, a more comprehensive application form be used so as to enable details to be obtained about the applicant's circumstances and those of the

Australian family to be visited by the applicant. The current Form 48R appears to be appropriate for this purpose.

Risk factor

7.56 As well as general claims about discriminatory and arbitrary decision making practices, the application of the risk factor to specific visitor applicants was a major source of dissatisfaction for community organisations. The legislative basis for the risk factor is described in Chapter Four.

7.57 Some considered the risk factor to be discriminatory by its very nature, arguing that it deems certain persons to be high risk applicants on the basis of their nationality, age and gender. The Ethnic Affairs Commission of New South Wales, for example, stated:

> [The risk factor] is nothing more than stereotyping and makes a mockery of the claim that Australia's policies regarding immigration are non-discriminatory . . .[30]

7.58 The South Brisbane Immigration and Community Legal Service criticised the risk factor on similar grounds, advocating its abolition. It considered the risk factor to be particularly unfair on those applicants from poorer countries who, while they intend a genuine visit, find it difficult to demonstrate financial commitments in their home country. The Service stated:

> As the [risk factor] statistical groups usually relate to people from poorer countries, either in their youth or elderly years, in many cases it is not possible for those people to satisfactorily demonstrate at the initial stages that [they] intend a genuine visit due to the types of proof required . . . The policy statements place greater emphasis on property, employment and financial ties of the applicant . . . than [on] an applicant's family or personal ties.[31]

7.59 It also was claimed that decision makers tend to refuse outright those applicants to whom the risk factor applies, even though the regulations require

30 Evidence, p. S740.

31 Evidence, pp. S329-S330.

them to have regard to the circumstances of the applicant in his or her home country.[32] The Migration Institute of Australia stated:

> . . . a lot of decent people, honest people, from high risk countries are refused visas without . . . too much attention being given by officers to their application.[33]

7.60 According to IARC, the percentage of decisions set aside by the IRT lends support to those who criticise the operation of the risk factor. IARC noted:

> The IRT set aside 52% of the initial decisions to reject the visitor visa application. This suggests that half of the cases where 'risk factor' are applied are rejected unfairly and suggests that there are major problems with the implementation of the 'risk factor' concept as it stands now at the initial point of first application.[34]

7.61 The Committee's own examination of 173 close-family visitor refusals reviewed by the IRT from January 1994 to June 1995 showed that 67 were refused on lack of bona fides grounds and 106 were refused on risk factor grounds. In relation to the bona fides cases, 12 were upheld and 55 were overturned by the IRT. In relation to the risk factor cases, 17 were upheld and 89 were overturned. This set aside rate is even higher than the 52 per cent noted by IARC.

7.62 In addition to those who opposed the risk factor as a matter of principle, some were dissatisfied with the use of overstay rates to compile the list of relevant characteristics (nationality, age and gender). It was argued that it would be preferable to include countries whose nationals accounted for large numbers of overstayers in absolute terms. This view was exemplified by IARC, which expressed concern that the risk factor does not apply to nationals of the United Kingdom, even though visitors from the United Kingdom account in absolute terms for a large number of the total unlawful entrant population.[35]

7.63 Others claimed that there are deficiencies in the way the risk factor is explained to applicants and their representatives. According to the Western Australian Chinese Chamber of Commerce, decision records often give insufficient information about the role of the risk factor in decision making.[36] In this regard, the explanatory notes accompanying Form 48R do not explain that

32 See Chapter Four

33 Evidence, p 477

34 Evidence, p. S255

35 Evidence, p S254; DIEA statistics show that nationals of the United Kingdom account for a significant proportion of the total unlawful entrant population; see Evidence p S638.

36 Evidence, p. 654.

the detailed information sought on the form is used to assess applicants against the risk factor.

7.64 VIARC claimed that even those risk factor applicants who are granted a visitor visa continue to be penalised by limitations concerning the period of stay and the number of journeys to Australia. VIARC stated:

> It seems incongruous that a person whose application has been assessed against a more stringent standard should then be unable to access a multiple entry visa.[37]

7.65 The law currently provides that the period of stay provided to a long stay visitor to whom the risk factor applies cannot exceed six months.[38] However, DIEA guidelines state that visitor visas should generally be granted to allow for multiple journeys to Australia. While policy guidelines provide that a single entry visa may be granted where it seems appropriate to the applicant's circumstances, the fact that the risk factor applies is not listed as one such circumstance.[39]

7.66 DIEA rejected claims that the risk factor is discriminatory. It stated that the use of the risk factor is legitimate, since it is compiled on the basis of objective statistical evidence which is updated regularly.[40] Further, DIEA stressed that the fact that the risk factor applies to a person does not automatically result in a refused application. Rather, as outlined in Chapter Four, immigration decision makers must take into account the personal circumstances of the applicant when deciding whether or not there is 'very little likelihood' of overstay in the particular case.

7.67 On a related issue, the Ethnic Affairs Commission of New South Wales claimed that in addition to the risk factor, immigration officials develop and apply 'secret profiles' in order to decide applications. In this regard, the Chairman of the Commission stated:

> . . . I am led to believe that on the basis of those risk factors, individual posts then develop their own profiles. They are the ones that are not made publicly available. In other words, what is publicly available says that you must look at nationality, you must look at age, you must look at family ties, et cetera. But I am led to believe that there is a document, somewhere in each post, which says,

37 Evidence, p S202.

38 Regulation 2.06A applies; while most long stay visitor visas provide for a period of stay of six months as a matter of policy, this period is limited in law only for applicants to whom the risk factor applies

39 DIEA, *Procedures Advice Manual 3*, Issue 10, 25 October 1995, GenGuideH/Text, p 16.

40 Evidence, p. S820

'The age that you must really guard against is this group, the family ties that you must watch out for are these'.[41]

7.68 No evidence was provided to substantiate these claims. While DIEA acknowledged that such profiles had been used in the past, they have been replaced by the list of relevant characteristics relating to the risk factor (as outlined in Chapter Four).[42] Further, DIEA noted that decision makers make use of the Movements Alert List (formerly Migrant Alert List) and post-specific, local warning lists when assessing applications, but stressed that there is no legal basis for deciding applications solely on the basis of a warning list match. Rather, decisions must relate to the applicant's ability to satisfy prescribed criteria.[43]

Conclusions

7.69 The Committee is of the view that it is essential to guard against abuses of the visitor program. To that end, the Committee supports the principle that where objective data demonstrates that certain classes of entrant present a higher overstay risk, such evidence should be used by DIEA in its decision making. In the Committee's view, it is appropriate that visitor applicants who exhibit high risk characteristics be requested, where appropriate, to produce cogent evidence to demonstrate that their intentions in visiting Australia are genuine.

7.70 In this context, the Committee supports the principle of the risk factor profile. The profile is a management device constructed from objective data which simply allows decision makers to highlight those visitor applicants who must show appropriate evidence of their intention to return home. The risk factor profile does not mandate refusal of the visa. While the visitor visa refusal rates from posts in certain risk factor countries are high, large numbers of visitor applicants at such posts are being approved.

7.71 In the Committee's view, the IRT's high overturn rate of close family visitor visa decisions, as noted by IARC and indicated from the Committee's own examination, is not evidence of unfair offshore practices. Rather, it is an indicator of the decision maker's flexibility to grant a visa in risk factor cases when the applicant can demonstrate that there is very little likelihood that he or she will overstay. It is relevant to note that there are a relatively small number of appeals against such visa refusals, even though all close family visa applicants who are refused visas are informed of their review rights. It is also important to remember that the IRT has particular advantages compared to the assessing officer overseas. The IRT is able to hear from the Australian family of the visitor

41 Evidence, p. 416.

42 See paragraphs 4.54-4.70.

43 Evidence, p. 1180.

visa applicant. This enables the IRT to have before it additional evidence concerning the reasons for the visit and the applicant's intentions or incentives for returning home.

7.72 The availability of a review mechanism in close family visitor cases demonstrates Parliament's concern to offer every opportunity for the consideration of issues relevant to decisions affecting visits by relatives of Australian citizens and permanent residents. It always has been Parliament's intention—and remains a key principle of the existing Migration Regulations—that genuine visits from close family members should be facilitated and encouraged.

7.73 Notwithstanding the Committee's general support for the risk factor criterion, it is evident that there are problems with aspects of the risk factor, indicating the need for a further and fuller assessment of its operation. Currently, the risk factor profile targets particular immigration risks, namely those visitor visa applicants who have applied for residence in Australia in the five years preceding their visa application as well as those applicants who share characteristics with known visitor overstayers in Australia. The profile does not take into account the characteristics of visitors who apply for residence from within Australia shortly after their arrival. Such visitors can represent a separate immigration risk, in that they appear to use their visitor visas in order to jump the offshore immigration queue.

7.74 In light of the limitations of the existing risk factor profile, the parliamentary committee which will undertake the review of the revised visitor visa arrangements, as proposed in recommendation 2, should be requested to conduct a more detailed assessment of the risk factor's operation. In order for a proper assessment to be made at that time, DIEA needs to collect a range of objective data relevant to such an assessment. The information should include data on visitor overstay rates and on applications for extensions of stay and change of status made by visitors from within Australia, particularly applications for change of status on family, spouse, interdependent and refugee grounds. Such data should include information on the timing of onshore visa applications so that an assessment can be made as to whether it is necessary to modify the risk factor profile to include within it visitors who have sought permanent residence in Australia within two months of their arrival.

7.75 In the meantime, certain modifications to the current risk factor are required to ensure its effective operation. As noted in Chapter Four, the text of criterion 4011 (which sets down the terms of the risk factor profile) is ambiguous. The regulation presently states that applicants are within the risk factor profile if an applicant meets one or more of the characteristics of the profiled classes. In actual fact, applicants come within the profile only if they meet all three characteristics of nationality, age and gender presently listed in each of the risk profiles. The Committee considers that the regulation should be amended so as to remove this ambiguity.

7.76 The Committee also is concerned that the risk factor profile is perceived as being discriminatory. In the Committee's view, one of the advantages of the risk factor is that it is based on transparent and objective data concerning the characteristics of overstayers. To alleviate the perceptions of discrimination, DIEA should ensure that in the text of its visa refusal decisions it is made clear that it is objective data which guides decision makers. In addition, more publicity should be given to the use of this criterion so that applicants are alert to the fact that they may fall within the risk factor profile and therefore must satisfy decision makers of their clear intention to abide by the visitor visa conditions. To this end, the Committee considers that DIEA should produce and make available advice pamphlets informing applicants of the type of information which decision makers would find helpful in evaluating the claims of visitor visa applicants coming within the risk factor profile.

7.77 As for the information on which the risk factor profiles are based, the Committee notes that prior to 1 September 1994 it was easy to obtain a relatively accurate profile of overstayers in Australia from DIEA's records. By contrast, it is more difficult to ascertain an accurate calculation of overstayers from the figures available to the Committee subsequent to 1 September 1994. Those figures (see Appendix Five) simply show the number of non-citizens who have overstayed their visas and who have not presented to or been apprehended by DIEA. They do not record the number of unlawful non-citizens who have been issued with a bridging visa. It follows, therefore, that any risk factor profile compiled from post-September 1994 figures would not provide an accurate representation of the total number of visitors who arrived in Australia and overstayed their visas.

7.78 In the Committee's view, if risk factor profiles are to be used as part of the visitor visa criteria, DIEA must record as overstayers not only those people who do not have a visa and are unlawful non-citizens, but also those people who had overstayed their visas at the time they were issued with bridging visas. On this point, the Committee notes that in evidence at a Senate Legal and Constitutional Legislation Committee hearing on 20 November 1995, DIEA indicated that its intention is to take account of individuals issued with bridging visas when calculating overstay rates.

7.79 The Committee also considers that the risk factor profile should be updated annually to ensure its currency and, most importantly, to ensure that it is targeted appropriately at those who are risk cases. In addition, to enable wider public access to the risk factor profile, it should be gazetted.

7.80 Further, the Committee is sympathetic to the concern expressed by VIARC that risk factor applicants who are granted long stay visitor visas are unable to stay for periods in excess of six months. Such restrictions may be appropriate for some applicants but not for all. For this reason, the Committee agrees that the existing regulation relating to the six month limit on period of stay for visitors who come within the risk factor be amended so that such visitors are able to obtain long stay visitor visas for periods of more than six months if the decision maker considers that a longer period of stay is appropriate.

Recommendations

7.81 **The Committee recommends that:**

9. as part of the review of the revised visitor visa arrangements proposed in recommendation 2, the parliamentary committee conducting the review undertake a detailed assessment of the risk factor profile to determine whether the profile is working to minimise the immigration risks of visitors overstaying and applying for residence from within Australia;

10. to enable a proper assessment of the risk factor profile, as proposed in recommendation 9, the Department of Immigration and Ethnic Affairs collect a range of objective data relevant to such an assessment, including data on visitor overstay rates as well as data on applications for extensions of stay and change of status made by visitors in Australia, particularly applications for change of status on family, spouse, interdependent and refugee grounds. Such data should include information on the timing of onshore visa applications;

11. pending the outcome of the proposed review of the risk factor, as detailed in recommendation 9, the risk factor profile in its present format be identified accurately and defined precisely to clarify that applicants come within the risk factor profile if they exhibit all of the same characteristics as any one of the profiled classes;

12. the Department of Immigration and Ethnic Affairs ensure that in the text of its decisions concerning visitor visa refusals it is made clear that the decision is based on objective data relevant to the merits of the individual case and is not a subjective assessment;

13. the long stay visitor visa regulation, which limits the period of stay for visitors who come within the risk factor to less than six months, be amended so that such visitors can obtain long stay visitor visas valid for a period of stay of more than six months if the decision maker considers that a longer period of stay is appropriate;

14. subject to the outcome of the proposed review of the risk factor, as outlined in recommendation 9, the overstayer statistics on which the risk factor profiles are based include not only those persons who have overstayed their visas and have become unlawful non-citizens but also those persons who have overstayed their visas and have been issued with bridging visas;

15. the risk factor profile be updated annually;

16. the risk factor profile be gazetted; and

17. the Department of Immigration and Ethnic Affairs produce and make publicly available pamphlets which provide information about the operation of the risk factor profile. Those pamphlets should advise visitor visa applicants within the risk factor profile of the need to provide appropriate evidence of their intention to return home. The pamphlets also should provide guidance on the type of information which would assist decision makers in determining whether the applicant is likely to return home.

Visitor screening

7.82 Another important consideration for the Committee was whether the existing visitor visa system is effective in excluding from Australia those persons who may pose a risk to the Australian community or who may be likely to breach immigration laws.

7.83 As noted in Chapter Five, there currently are three main alert systems used in screening visitors seeking entry to Australia:

- DIEA's Movements Alert List (comprising a Document Alert List and a Person Alert List) which contains information on persons who have a history of non-compliance with immigration requirements, information on persons with criminal records, and information concerning lost, stolen or bogus travel documents;
- local warning lists, which contain information specific to the particular overseas post at which the visa application is lodged; and
- the Passenger Automated Selection System, which is administered by Customs and is used at the point of entry to alert law enforcement agencies to the arrival of an individual who is of interest to those agencies.

7.84 As visa application and assessment processes have been streamlined, so that a majority of applicants no longer need to provide detailed information on their bona fides or attend for an interview, these alert lists have become of increasing significance in detecting and preventing the entry of undesirable or suspect persons to Australia. With the move to an electronic travel authority, under which application forms will be removed altogether, the efficacy of the alert systems will be of even more importance.

7.85 For these reasons, the Committee was concerned about various examples of undesirable persons gaining entry to Australia, which appear to indicate that the alert systems are not as comprehensive as they could be. As noted in Chapter Six, the NCA and AFP advised that around 200 members and associates of the Japanese crime organisation, the Yakuza, have gained entry to

Australia since 1986. These people were identified as Yakuza members or associates subsequent to their entry to Australia. In another example, which was reported in the media, an Indian national, Mr Memon, was able to enter Australia with a visitor visa and subsequently with a business migration visa, even though his passport had been listed as a suspect document and he was suspected of having an involvement in terrorism and drug trafficking. On the basis of these and other examples, the Committee questioned DIEA, Customs and law enforcement agencies concerning the adequacy and effectiveness of the existing alert systems.

7.86 Customs was of the view that the alert systems work well from a technological view point, in that they allow rapid retrieval of information about suspect persons if that information is on the system. Customs commented:

> . . . it is very effective for those who are on the system . . . the system has been used on many occasions to assist, for example, in relation to detection of narcotic offenders, people who are bringing in currency, people who are bringing in firearms, et cetera.[44]

7.87 Customs considered that any instances of suspect or undesirable persons entering Australia undetected would not have arisen because of a technological flaw in the system, but rather because relevant information on such persons had not been placed on the system by the responsible agencies. Customs stated:

> For whatever reason—either because it does not know or because it chooses not to—if an agency does not put [an alert] on the system, that is not a fault in the system; that is a fault in the agency.[45]

7.88 On this point, it is relevant to note that to date MAL has been concerned primarily with identifying people who have breached immigration laws. MAL has not been regarded by law enforcement agencies as a primary tool for dealing with crime and security related issues which may arise in the context of visitor arrivals. In this regard, the Chairperson of the NCA stated:

> . . . law enforcement agencies in Australia—and I am talking about both federal and state levels—have not been major users of the migrant alert system or the TRIP system in the past. I am not saying we have not used it, but we are not major users of it.[46]

---

44 Evidence, p. 1013.

45 Evidence, p. 1015.

46 Evidence, p. 863.

7.89 There was broad agreement that the alert system needs to be more comprehensive, not only because of the increasing reliance on that system as a screening tool, but also because of increased transnational criminal activity, including in Australia, and the changing nature of transnational crime. The Chairperson of the NCA, for example, commented:

> . . . most of the law enforcement agency information that is now on the MAL system emanates from Interpol, through their various lists, their red alerts, their blue alerts and their green alerts . . . That is valuable but I do not believe that it is near valuable enough. What we have to do, increasingly, with this growing international phenomenon that we are facing, is to work with agencies in other countries to get better refinement and to get better intelligence to put into the system.[47]

7.90 DIEA also recognised the need for an improved alert system and advised the Committee of measures that it is already undertaking to improve the system's effectiveness. First, DIEA has modified its procedures so that when a document is placed on the document alert list within MAL the name of the document holder simultaneously is placed on the person alert list. According to DIEA, this addresses the deficiency identified in the case of Mr Memon.[48] Secondly, DIEA has embarked on a project for improving MAL which involves:

- upgrading of name matching routines;
- increasing the number of listings; and
- changing the system's focus from immigration related matters to broader security and criminal issues.[49]

7.91 DIEA advised the Committee that it is acquiring new technology which will improve existing name matching processes. According to DIEA, the new technology will ensure that MAL is at the leading edge of world practice in relation to name matching.[50]

7.92 In addition, DIEA is proposing to increase significantly the number of listings on MAL. Currently, the majority of listings relate to persons who have breached immigration requirements. DIEA intends to alter this focus by listing on MAL a significantly higher number of persons who are a character or security concern.[51]

47 Evidence, p. 874.

48 Evidence, pp. 1143-1144, pp. 1165-1166.

49 Transcript of briefing, 25 August 1995, p. 21.

50 ibid.

51 ibid., p. 21, p. 23

7.93 DIEA also is intending to incorporate local warning lists into MAL. According to DIEA, one weakness of the existing system is that local warning information is available only to officers at the particular overseas post. Applicants could circumvent those warning lists by applying for a visa at an alternative overseas mission. This problem is to be resolved by having a single database into which local alerts are channelled. In this regard, DIEA commented:

> The whole objective behind the improvement is to have one single database so that there would be no point at which there would be differences between the local warning records from post to post . . . In that way every visa application . . . would always be processed against a single database of alerts . . . the local warning records would be feeding into that single database.[52]

7.94 DIEA considers that by extending the scope and size of MAL, it will become the primary tool for screening out persons who pose a risk to the Australian community and who are likely to breach immigration laws. In this regard, DIEA indicated that it has been exploring with law enforcement agencies the processes by which information on criminal organisations and known international criminals can be included on the alert system.[53]

7.95 On this point, the AFP indicated that one of the principal issues to consider is the number of listings which realistically can be placed on any alert system. The AFP questioned whether it is viable to list every criminal in the world, or whether it is preferable to record only those persons who would be likely to have some relevance to or some impact on Australia. The AFP suggested that it needs to be a selective process, otherwise tens of thousands of people could be listed who would never have contact with Australia.[54]

7.96 In this regard, DIEA stressed that MAL would be capable of holding as many listings as required:

> Volume is not an issue for the alert listing. We can have an alert listing as big as you like and it is not going to cause processing problems.[55]

52 ibid., p. 24.

53 Evidence, pp. 1156-1158.

54 Evidence, p. 1066.

55 Evidence, p. 1158.

7.97 Another issue raised by the AFP is that information is not always readily available from overseas. The AFP noted that in relation to Japan, for example, privacy laws make it difficult to obtain information from Japanese law enforcement agencies about suspect or undesirable persons who may be of interest to Australian law enforcement agencies.[56]

7.98 On the broad issue of intelligence gathering, the AFP indicated that access to information is enhanced where AFP officers are stationed overseas and are able to establish personal contacts with overseas law enforcement agencies. The AFP stated:

> . . . our experience is, if you really want to find out what is going on and what could impact, we need to get people out there and to create friends, to make friends, to really get involved with those enforcement agencies in order to maximise the information flow.[57]

7.99 On a separate although related issue, DIEA indicated that it would be preferable to establish a link between the MAL database and the PASS database. Currently, the two systems operate separately to each other. In this regard, DIEA commented:

> In our preferred system it would be that any record on MAL is automatically on PASS and that, if a law enforcement agency wants them both on PASS and MAL, they could input into either system and have them on both. So if the AFP wanted a record on PASS and said it also wants it on MAL, it should not have to ask Customs to put it on PASS and ask us to put it on MAL. The system should be able to transfer the data but it does not do that.[58]

Conclusions

7.100 When the Committee commenced this inquiry, it was under the impression that the visa system provides a comprehensive screen against the entry to Australia of persons who may pose a risk to the Australian community. However, information received during the inquiry indicated to the Committee that the screen is not as comprehensive as it could be and should be.

56 Evidence, p. 1045.

57 ibid.

58 Evidence, p. 1166.

7.101 DIEA's Movements Alert List (previously Migrant Alert List), against which all visa applicants are screened, has been focused primarily on persons who have breached immigration laws rather than on persons who are a criminal or security concern. As such, it has been a somewhat limited screening tool. This was confirmed to the Committee by the National Crime Authority when it noted that law enforcement agencies have not been major users of that alert system.

7.102 Given the shift to simplified visa application processes, whereby the majority of visa applicants no longer need to provide detailed information on bona fides or attend for an interview, DIEA's alert system has become of crucial significance in detecting and preventing the entry to Australia of undesirable and suspect persons. It will be of even more importance when the electronic travel authority is operational. Unless the alert system has a broader focus and is made more comprehensive, the processes for screening entrants to Australia could be seriously compromised.

7.103 In this regard, the Committee supports measures to enhance the Movements Alert List, including those announced by DIEA towards the end of the inquiry. These measures involve increasing the number of entries, expanding its focus beyond mainly immigration concerns to include wider criminal and security concerns, incorporating local post warnings and improving name matching techniques. The Committee stresses that the redevelopment of the Movements Alert List must be a priority for DIEA. Particular emphasis should be directed to ensuring that the Movements Alert List records as comprehensively as possible those non-citizens who may be a criminal, security or public order concern if they were to enter Australia. This would require not only a listing of known criminals but also those associated with criminal organisations.

7.104 The Committee recognises that if the alert system is to be an effective screening tool, then responsibility for its redevelopment and improved usage does not rest with DIEA alone. In this regard, DIEA, as administrators of the Movements Alert List, should ensure that appropriate consultation is undertaken and effective working partnerships are developed with all agencies which could and should be providers and users of the alert information. This includes, for example, Customs, relevant law enforcement agencies and DFAT. Each of these agencies has a responsibility to coordinate with and assist the others to improve the quality and quantity of information placed on the alert system and to ensure that the system is used to best effect.

7.105 As part of the enhancement process, improved procedures and guidelines need to be developed for accessing, entering and updating information on the Movements Alert List. From the evidence available to the Committee, it appears that the existing procedures for listing criminal and security related alerts are somewhat ad hoc. If the quality of the alert system is to be maintained, then the emphasis cannot simply be on a one-off enhancement of the system. Appropriate procedures and guidelines must be in place to ensure an ongoing commitment to the system's effective operation. In this respect, processes should be introduced to ensure that data relevant to visa issuance

which is available to other government departments and agencies is provided to DIEA. Further, the Commonwealth Government should seek the cooperation of State and Territory Governments in this matter.

7.106 As a further measure towards improving the alert system, DIEA and Customs must work towards the integration of the Movements Alert List and the Passenger Automated Selection System. In the Committee's view, integration of the two systems is necessary if the agencies which require alert information are to have full access to all such information.

7.107 As for the availability of information, the Committee recognises that there can be difficulties in accessing intelligence held by overseas law enforcement agencies, for example because of privacy laws in their countries. In this regard, the Australian Government must exert pressure to persuade governments of relevant overseas countries to remove any existing obstacles to the effective exchange of criminal intelligence information.

Recommendations

7.108 **The Committee recommends that:**

18. as a priority, the Movements Alert List, against which all visa applicants are screened, be upgraded by the Department of Immigration and Ethnic Affairs, with a particular emphasis on improving the listing of alert information concerning non-citizens who may be a criminal and security concern to Australia;

19. in upgrading the Movements Alert List, the Department of Immigration and Ethnic Affairs ensure that appropriate consultations are undertaken and effective working partnerships are developed with all agencies which could be and should be providers and users of the alert information including, for example, the Australian Customs Service, the Department of Foreign Affairs and Trade and all relevant law enforcement agencies;

20. enhanced procedures and guidelines be developed for accessing, entering and updating alert information on the Movements Alert List to ensure an ongoing commitment to the effective operation of the alert system;

21. the Department of Immigration and Ethnic Affairs and the Australian Customs Service work towards the integration of the Movements Alert List and the Passenger Automated Selection System to ensure that all relevant alert information is available to agencies requiring access to such information;

22. processes be introduced to ensure that data relevant to visa issuance which is available to other government departments and agencies is provided to the Department of Immigration and Ethnic Affairs. In this regard, the Commonwealth should seek the cooperation of State and Territory Governments; and

23. the Australian Government exert pressure to persuade governments of relevant overseas countries to remove any existing obstacles to the effective exchange of criminal intelligence information.

New technology

7.109 As indicated in Chapter Five, DIEA has introduced new technology to expedite visa processing, visa issue and passenger clearance. Most recently, DIEA, in conjunction with Qantas and Customs, has introduced Advance Passenger Clearance in order to streamline clearance procedures at Australia's international airports. In addition to the evidence received regarding APC, other suggestions were made to the Committee concerning future options for the use of technology to expedite passenger clearance. Most notable were suggestions involving the use of so-called 'smart cards' and biometric technology to facilitate airport processing.

7.110 Smart cards essentially are a credit card on which relevant information, including visa details, can be stored. Biometric technology, on the other hand, enables the identification of an individual through their physical characteristics, generally by use of hand or finger scanning equipment.[59]

7.111 In its submission, Tourism Council Australia referred to the Future Automated Screening for Travellers (FAST) system which is being piloted in the United States at New York's John F. Kennedy and Newark Airports. The FAST system is based on the use of biometric technology to scan and record physical characteristics unique to an individual traveller. The biometric record can then be used to identify travellers at departure and arrival points, with the process being relatively inexpensive and taking only a few seconds.[60]

7.112 According to Tourism Council Australia, the introduction of technology such as FAST would reduce pressure on entry control points. With the use of such technology, entry clearance procedures would involve only a hand scan and the swiping of a passport through a machine reader. This would obviate the need for passengers to wait in line until such time as a clearance officer was available to conduct entry procedures. Tourism Council Australia suggested that the FAST system could be used to augment travel document information which is obtained at the time of airport check-in, for use in advance clearance procedures while the passenger is en route to Australia.[61]

---

59 Biometric technology can include hand geometry and fingerprint recognition, eye scans, voice verification, signature verification and thermal face recognition. Evidence p. S552

60 Evidence, p. S550.

61 Evidence, p. S553.

7.113 In evidence before the Committee, Mr Milne Home, a representative of Bio Recognitions Systems Pty Ltd, commented that the major advantage of the use of biometric data is its high degree of reliability. He stated:

> The one thing which is missing in every single card or document type system is the absolute proof that the person who presents it is the person who owns it. All you can go on at the moment is photographs and the details, but with clever forgery that is quite possible to get around. When you have got to put something like your hand or your finger down on a system like this one, which has got a one in a million statistical chance of false acceptance, then you have got a very much better handle and a much better audit trail of who is doing what and at what time.[62]

7.114 The Privacy Commissioner indicated that if technology such as smart cards were to be introduced, there are relevant privacy considerations which need to be taken into account, including, for example, the effect such technology will have on the privacy of individuals, the amount of information which will be held on databases, the procedures for gaining access to the information, and the procedures for protecting the security of the information. The Privacy Commissioner suggested that it is best for such issues to be addressed at the design and development stage of any new system.[63]

Conclusions

7.115 The introduction of new technology has been integral to the development of a more efficient and expeditious visitor visa system. As technology develops, the possibilities for improving visitor entry processes also will increase. It is evident that there are various options which could be considered in facilitating passenger entry, including the use of smart card and biometric technology. In the Committee's view, these options should be explored to ensure that the visitor entry processes are as efficient and expeditious as possible. In examining those options, appropriate consideration should be given to issues such as cost, implications for airport infrastructure and privacy matters.

7.116 The benefits of new technology can be gauged from the efficiencies which have resulted through the introduction of machine-readable passports and visas. Regrettably, not all countries have embraced those benefits. In this regard, the Committee is of the view that countries which have not introduced machine-readable passports should be encouraged to do so in order to facilitate passenger processing.

62 Evidence, p. 219.

63 Evidence, p. S792, pp. S807-S810.

Recommendations

7.117 **The Committee recommends that:**

24. the Department of Immigration and Ethnic Affairs, in consultation with other relevant Commonwealth agencies, such as the Australian Customs Service, the Federal Airports Corporation and the Privacy Commissioner, explore the option of introducing new technology such as 'smart' cards and biometrics to facilitate Australia's visitor entry processes; and

25. the Australian Government, both at the bilateral level and through appropriate international forums, continue to encourage the early adoption of machine-readable passports by all countries.

Visitors and health

7.118 During the inquiry, the Committee received some evidence concerning the health requirements which relate to visitors. The legislative basis for those requirements is outlined in Chapter Four.

7.119 In his capacity as the Consultant Advisor on Tuberculosis to the State of Victoria, Dr Jonathan Streeton commented particularly on tuberculosis. He claimed that some visitors to Australia present with active tuberculosis or chest X-rays suggestive of past or present tuberculosis, often shortly after arrival. Dr Streeton commented that it appears that many of these visitors have come to Australia specifically in order to obtain treatment for known tuberculosis infection, usually with the complicity of family members already resident in Australia and the involvement of certain medical officers.[64]

7.120 In response to these claims, the Commonwealth Department of Human Services and Health commented that it agreed with Dr Streeton's concerns about the risk to public health if people entering Australia have tuberculosis or other infectious diseases. At the same time, the Department stated that it was impossible to carry out medical examinations for all visa applicants:

> [We are] generally trying to strike a balance between risk in terms of public health or medical conditions and the fact that . . . something like 3½ million visitors [enter Australia] in a year. It would simply be impossible for us to fully screen 3½ million people each year, so clearly what we need to do is . . . balance risk against cost and inconvenience. In terms of cost . . . the applicant is the

64 Evidence, p. S164.

one who pays for any medical examination or X-ray that is required.[65]

7.121 According to the Department of Human Services and Health, 83 visitor visa applicants did not meet relevant health requirements in 1994.[66]

7.122 Dr Streeton also commented that it was a 'glaring omission' that children under the age of 16 who are of health concern are not required to undergo a chest X-ray. He stated:

> . . . it is not surprising that we are now seeing increasing numbers of cases of active tuberculosis in young students who have entered Australia for the purposes of further study at our secondary and tertiary institutions such as in Melbourne and Sydney.[67]

7.123 In response, the Department of Human Services and Health explained that children under the age of 16 are not required to undergo a chest X-ray because of the low incidence of active infectious tuberculosis in children. The Department noted that, in view of this, 'it is probably not worth the risk of exposing them to the X-ray'.[68]

7.124 Dr Streeton also expressed concern that the provisions of the *Privacy Act 1988* restrict the degree to which information about the health of individuals can be disclosed to health authorities. He commented:

> I would be keen to see some improvement obtained in the current impasse that exists between the need for satisfactory public health control of communicable diseases such as tuberculosis, and the limitations placed on the transmission of personal information by the *Privacy Act 1988* . . . Surely suspicion of active pulmonary tuberculosis is sufficient grounds for such disclosure provided that at all times appropriate confidentiality has been preserved as detailed in other sections of the Statement of Principles.[69]

7.125 In response to Dr Streeton's concerns in this regard, the Privacy Commissioner stated in a supplementary submission:

65 Evidence, p. 779.

66 Evidence, p. S817.

67 Evidence, p. S163.

68 Evidence, p. 784

69 Evidence, pp. S164-S165.

> The Act, although establishing a general rule of non-disclosure of personal information by Commonwealth agencies, also recognises that the public interest will, on occasion, weigh in favour of disclosure . . . although prima facie DIEA cannot disclose information to State Departments of Health, the Act clearly provides a mechanism for authorising disclosure in certain circumstances.[70]

Conclusions

7.126 During the inquiry, some attention was directed to the health criteria relating to visitor entry. While one witness raised particular concerns about visitors entering Australia with tuberculosis, the Department of Human Services and Health indicated that this issue is of primary significance in relation to persons who enter Australia for longer or permanent periods of stay.

7.127 The Committee notes that a number of issues relevant to the health criteria were raised by its predecessor, the Joint Standing Committee on Migration Regulations, in its 1992 report entitled *Conditional Migrant Entry: The Health Rules*. That report included recommendations concerning the management of information about persons with tuberculosis and other infectious diseases. The Government response to those recommendations was tabled in the Parliament on 29 November 1995.

7.128 In its response, the Government accepted the previous Committee's recommendation for an effective and timely reporting system whereby the results of medical examinations for infectious diseases such as tuberculosis and hepatitis B are passed to State and Territory health authorities by DIEA, to enable appropriate public health standards to be implemented by those authorities. The Government advised that a system already is in place whereby the medical documents of applicants who may require monitoring of their tuberculosis or hepatitis B are passed to the health authority in the State or Territory of the applicant's intended residence in Australia. The Government noted that a review of the health requirement and associated procedures to date has resulted in amendment of the Migration Regulations to require such applicants to provide a written undertaking to put themselves under the supervision of those authorities where this has been requested by the Commonwealth Medical Officer. The Government also indicated that options for strengthening post-arrival compliance with these undertakings are being considered by the Department of Human Services and Health and DIEA. In the course of their deliberations, those departments should take account of the evidence on the health requirement presented to this Committee during the inquiry into Australia's visa system for visitors.

70 Evidence, pp. S943-S944.

7.129 Given that the focus of this inquiry meant that limited evidence was received on health issues, the Committee was constrained from making detailed findings and recommendations on these matters. The Committee regards the health issues associated with temporary entry to be extremely important. Dr Streeton's evidence concerning visitors and overseas students who suffer from tuberculosis raises serious concerns.[71] The issues should be investigated further as part of a focused inquiry on these matters which should be undertaken in the next Parliament either by the successor to the Joint Standing Committee on Migration or a parliamentary committee dealing with community services and health issues.

Recommendation

7.130 **The Committee recommends that:**

26. in the next Parliament, the successor to the Joint Standing Committee on Migration or a parliamentary committee dealing with community services and health issues be requested to undertake an inquiry into the health issues associated with temporary entry to Australia.

Visitor visa terms and conditions

7.131 Aside from suggestions that changes are required to visitor visa processing arrangements, various proposals were advanced for changing the terms and conditions applicable to visas.

7.132 Some tourism industry representatives and community organisations suggested that all visitor visas should be granted as multiple re-entry visas. They argued that widespread issue of multiple re-entry visas would reduce pressure on visa processing officers, since travellers could visit Australia as often as they wished during the period of visa validity without the need to approach an Australian mission each time. It was suggested that this would make the visa requirement less irritating for travellers.

7.133 In response to these proposals, DIEA noted that it already is standard practice for visitor visas to be issued as multiple re-entry visas. According to DIEA, this occurs for approximately 95 per cent of all visitor visas issued.[72] DIEA guidelines also make this policy clear to decision makers, advising them that as a general rule visitor visas are to be issued with a

71 Immediately prior to the Committee finalising this report, the Government announced certain measures relating to testing and monitoring of tuberculosis. The Committee did not have an opportunity to take evidence on these measures and, therefore, the announcement was not taken into account in the Committee's deliberations.

72 Evidence, p. 1129.

multiple re-entry facility. As noted in Chapter Four, a visitor visa generally must be used either 12 months from the date of its grant or if the applicant's passport is valid for less than 12 months, the period for which the applicant's passport remains valid. While longer time frames are available, a fee is applicable.

7.134 While the Tourism Task Force acknowledged that visitor visas currently allow for multiple entry, it suggested that many tourists are unaware of the availability of multiple re-entry visas. According to the Task Force, greater promotion and education in relation to the existence of this facility is required.[73]

7.135 A related problem is that some countries issue passports of only one year's duration. In such circumstances, a multiple re-entry visa has only limited value, as it becomes invalid when the passport expires. The Committee understands that this has been a particular problem in relation to the Japanese market, as many Japanese visitors to Australia have passports which are valid only for twelve months.

7.136 On a further issue, some considered that DIEA should review policy in relation to application fees and the period of stay provided by visitor visas. As outlined in Chapter Four, short stay visitor visas are valid for three months stay in Australia, while long stay visas are valid for more than three months. The former are free when in effect for up to 12 months, while a fee of $35 applies in relation to short stay visitor visas in effect for more than 12 months. A fee of $35 applies to the latter. Some disagreed with this fee structure, claiming that it deterred longer term holiday makers, particularly backpackers, from visiting Australia.[74] In this regard, the Tourism Task Force proposed that, in recognition of forecast growth in the backpacker market, no application fee should apply to long stay visitor visas.[75]

Conclusions

7.137 In relation to suggestions that all visitor visas should provide for multiple journeys to Australia, the Committee notes DIEA's evidence that currently, approximately 95 per cent of visitor visas issued are multiple re-entry visas. The Committee welcomes this practice and considers that it should be maintained.

7.138 However, in view of the number of witnesses who advocated the widespread use of multiple re-entry visas during the course of the inquiry, it appears that there is some discrepancy between perception and practice. The Committee therefore suggests that DIEA should publicise more actively the availability of this facility, both directly to visa applicants and indirectly through education of travel agents and other tourism industry members.

73 Evidence, p. S119.

74 Evidence, pp. 131-132 and p. 762

75 Evidence, p. S109

7.139 DIEA also should consider mechanisms to address the difficulties which can arise for persons with short term passports, for whom a multiple re-entry visa has limited value. Such mechanisms could include, for example, arrangements for transferring a multiple re-entry visa from a visitor's old passport to a new passport or the issuing of a visitor visa card, similar to the card recently proposed for business temporary entrants.

7.140 As for the issue of the fees which apply to long stay visitor visas, little evidence was received concerning the degree to which the current fee structure may impact adversely on visitors, or on the implications of removing fees. At this point in time, the Committee is not disposed to recommend changes to the existing fee arrangements.

Recommendations

7.141 **The Committee recommends that:**

27. the Department of Immigration and Ethnic Affairs actively publicise the availability of the multiple re-entry visa, both directly to visa applicants and indirectly through education of travel agents and other tourism industry members; and

28. the Department of Immigration and Ethnic Affairs consider mechanisms to ensure that visitors whose countries issue short term passports are able to access the benefits of multiple re-entry visas, either by introducing arrangements for transfer of a multiple re-entry visa from an old passport to a new one or by introducing a visitor visa card similar to the card proposed for temporary business entrants.

Passenger clearance

7.142 As noted in Chapter Five, all persons arriving in Australia are required to complete a passenger card and present it to the clearance officer along with their passport or other identity document and, for non-citizens, a valid visa.[76] The passenger card provides the opportunity for clearance officers to make a final check of passenger details before clearance within Australia is effected.

7.143 For non-citizens, the passenger card is of particular importance. If the information completed on the passenger card is incorrect, the non-citizen's visa is liable to cancellation. Non-citizens present in Australia without a valid visa are liable to detention and removal.

76 This does not apply to certain exempted persons entering with a special purpose visa.

7.144 Within the clearance process, the passenger card requirement can cause delays. If the card is incomplete or appears incorrect, this may require explanation to or questioning of the passenger.

7.145 Currently, the passenger cards are reproduced only in English. For those passengers who are unfamiliar with English, the passenger card may be confusing and difficult to complete.

7.146 In regard to the language difficulties which can arise in completing the passenger card, DIEA noted that some airlines print explanations of the content of passenger cards in their in-flight magazines. DIEA also noted that Qantas had given some consideration to developing a 'template' which could be provided in the pocket of airline seats. The template, which would contain translations of the card in a range of languages, would be put over the relevant sections of the passenger card to assist travellers in answering the questions. DIEA noted that airlines probably would prefer a template instead of providing passenger cards in several languages, because the added weight of such cards could cause difficulties.[77]

7.147 DIEA acknowledged that the passenger card continues to be a focus of attention. DIEA stated:

> We are looking for ways to make [the passenger card] more efficient and even questioning whether there are other ways we can collect the data at the point of entry without the need for a passenger to complete a card.[78]

Conclusions

7.148 As the passenger card currently is of crucial significance in the entry clearance process to Australia, in that the information provided by visitors on their passenger cards can be the basis for cancellation of their visas, it is vital that passengers have a clear understanding of the importance of the card and have the capacity to complete it correctly. As passenger cards are printed only in English, their completion can be problematic for persons who do not have an adequate command of the English language.

7.149 The Committee notes DIEA's advice that Qantas has given some consideration to producing a template in other languages which would fit over the passenger card and allow non-English speaking visitors to understand the card. In the Committee's view, this should be DIEA's responsibility. DIEA should produce such templates in the languages of all major nationality groups travelling to Australia and should provide these templates to all airlines which have flights to Australia. The availability of such templates should be publicised

77 Transcript of briefing, 25 August 1995, p. 10.

78 ibid., pp. 9-10.

actively to passengers. In addition, passenger cards in the languages of major nationality groups travelling to Australia, or translations of the questions and instructions on the card, should be available at arrival and/or departure points.

Recommendations

7.150 **The Committee recommends that:**

29. in order to assist travellers to complete passenger cards accurately, the Department of Immigration and Ethnic Affairs produce and distribute to airlines which have flights to Australia templates which can be placed over passenger cards and which provide a translation of the card in the languages of major nationality groups travelling to Australia. The availability of such templates should be publicised actively to passengers; and

30. passenger cards in the languages of major nationality groups travelling to Australia, or translations of the questions and instructions on the card, be made available at arrival and/or departure points.

Transit visas

7.151 During the inquiry, a number of witnesses suggested that Australia's transit visa arrangements should be modified.

7.152 Transit visas are required by non-citizens if:

- their main purpose in entering Australia is to transit en route to another country or in order to join a non-military ship as a crew member; and
- they intend to be in Australia for no longer than 72 hours.

7.153 Transit visas are valid for a maximum period of 72 hours. Most transit visas are valid for a single journey only.

7.154 Citizens of certain countries currently are exempt from the transit visa requirement if they are transiting Australia by air, intend to remain in Australia for less than eight hours and will remain in the transit lounge at an international airport.[79] Instead, these persons are deemed to hold a special purpose visa. The relevant countries are listed at Table 7.1. In advice to the Committee, DIEA indicated that this facility reflects the Government's commitment to the facilitation of international travellers while at the same time maintaining border integrity. As noted by DIEA, the transit arrangements

79 *Migration Regulations*, Schedule 9, Part 3.

recognise increasing trade links, reciprocal arrangements with other countries and also take account of the risk profiles of the included countries.[80]

7.155 From July 1995, transit passengers who hold a passport issued by the authorities of Taiwan also have been exempted from the transit visa requirement if they remain in an airport transit lounge during their transit period.[81] Such passengers also are deemed to hold a special purpose visa.

7.156 Transit visas must be applied for outside Australia. While no fee applies, passengers are required to show evidence of travel tickets or other documentation establishing that arrangements have been concluded for travel to a destination outside Australia.

7.157 DIEA indicated that 18 421 transit visas were issued in 1993-94. This figure includes both air and sea passengers, although DIEA estimated that the majority would have been issued to air passengers. Between 1 July 1994 and 31 March 1995, 15 498 transit visas were issued.[82]

7.158 The Committee was aware of concerns about the transit visa requirement, particularly in relation to travellers who transit Australia en route to New Zealand. It had been suggested that the requirement for certain nationals to obtain a transit visa for Australia, even where they remain in an airport transit lounge for the whole period, may be inhibiting travel to New Zealand.

7.159 According to Qantas, the transit visa requirement inhibits business and creates a negative impression of Australia.[83] Qantas also stated that the transit visa requirement can have implications for its business, because travellers from Asia to the United States or New Zealand often will choose to fly with other airlines which do not transit Australia. Qantas commented:

> Potential customers who may prefer to fly Qantas from Asia to the USA, or Asia to New Zealand, will probably choose a more direct route on a competitor if required to obtain a transit visa. Alternatively, it is the Qantas experience that some passengers refused uplift at check in on Qantas flights will turn to, and be accepted by, competitors flying a similar route.[84]

80 DIEA minute dated 15 January 1996.

81 *Migration Regulations*, Schedule 9, Part 2.

82 Evidence, p. S1207.

83 Evidence, p. S290.

84 Evidence, p. S290.

TABLE 7.1

COUNTRIES EXEMPT FROM TRANSIT VISA REQUIREMENT

Austria	New Zealand
Belgium	Norway
Brunei	Papua New Guinea
Canada	Philippines
Denmark	Portugal
Federated States of Micronesia	Republic of South Africa
Fiji	Republic of the Marshall Islands
Finland	Singapore
France	Solomon Islands
Germany	South Korea
Greece	Spain
Indonesia	Sweden
Ireland	Switzerland
Italy	Taiwan
Japan	Thailand
Kiribati	Tonga
Liechtenstein	Tuvalu
Luxembourg	United Kingdom (including its colonies)
Malaysia	Vanuatu
Malta	Western Samoa
Nauru	Zimbabwe
Netherlands	

Source *Migration Regulations*, Schedule 9, Parts 2 and 3.

7.160 The ATC argued that the current transit visa requirements as they relate to cruise ship passengers are likely to have an adverse affect on Australia's future share of the cruise market, particularly when compared to Asian countries which do not require visas from cruise passengers. The ATC stated:

> Australia's visa issuance policy needs to reflect the travel patterns of the cruising industry and have a visa free day visitation for cruise passengers. If Australia is to maintain and increase its share of the very competitive and lucrative international cruising market, then the current visa requirement . . . should be made as transparent as possible or abolished in line with our Asian competitors.[85]

7.161 When questioned about the current transit visa requirements which relate to cruise ship passengers, DIEA stated that it had gone to 'considerable lengths' to inform cruise ship operators of those requirements. At the same time, DIEA commented that it is currently discussing with cruise ship operators strategies for meeting the particular needs of cruise ship passengers who wish to transit Australia.[86]

Conclusions

7.162 The Committee considers that the current transit visa requirement is appropriate for travellers who intend to 'stopover' in Australia and spend their transit period away from the precincts of an international airport. The transit visa provides a means for recording the entry of such persons to Australia and ensuring that they do not remain for more than 72 hours.

7.163 In relation to transit passengers who remain in an airport transit lounge, the Committee acknowledges that DIEA has streamlined arrangements for the citizens of 43 countries as well as for holders of a passport issued by the relevant Taiwanese authorities. At the same time, however, the Committee is of the view that DIEA should give active consideration to eliminating the transit visa requirement for all passengers who will remain in an airport transit lounge for eight hours or less.

7.164 Further, given that cruise ship tourism was described by various witnesses as an area of potential growth for Australian tourism, the Committee suggests that as a matter of priority, DIEA continue to pursue with cruise ship operators options for further streamlining transit visa requirements for cruise ship passengers wishing to visit an Australian port for 72 hours or less.

---

85 Evidence, p. S387.

86 Evidence, pp. 1211-1212.

Recommendations

7.165 **The Committee recommends that:**

31. as a priority, the Department of Immigration and Ethnic Affairs give consideration to extending the number of countries whose nationals are not required to obtain a transit visa if they remain in Australia in an airport transit lounge for eight hours or less; and

32. the Department of Immigration and Ethnic Affairs pursue with cruise ship operators options for further streamlining transit visa requirements for cruise ship passengers wishing to visit an Australian port for 72 hours or less.

Working holiday makers

7.166 During the inquiry, some evidence was received on the working holiday maker visa, which is a specific category within the temporary resident program. While the working holiday maker visa is not a visitor visa, and strictly does not come within the terms of reference for this inquiry, it was given some consideration by the Committee because working holiday makers essentially are longer term visitors with temporary work rights.

7.167 The working holiday maker visa provides for young people to holiday in Australia for up to 12 months and supplement their funds by undertaking temporary employment.

7.168 Australia currently has reciprocal working holiday agreements with the United Kingdom, the Republic of Ireland, the Netherlands, the Republic of Korea, Canada and Japan.[87] The agreements provide for nationals of those countries aged between 18 and 30 to enter Australia as working holiday makers. Nationals from all other countries also may be granted a working holiday maker visa, although in these cases applicants must be aged between 18 and 25.

7.169 In order to meet the requirements for a working holiday maker visa, applicants must demonstrate that :

- their main purpose in coming to Australia is for a holiday, with any employment undertaken being incidental;
- they have a reasonable chance of obtaining employment in Australia;

87 In July 1995, Australia signed a memorandum of understanding with the Republic of Malta allowing for young Maltese citizens to come to Australia as working holiday makers from 1 July 1996. The arrangement is reciprocal. Australia also has approached the governments of France, Italy, Spain and Greece about establishing reciprocal working holiday maker arrangements.

- they have sufficient funds for a return fare and personal support, taking into account factors including the proposed length of stay, the extent of proposed travel and the extent to which accommodation and other assistance is available from relatives and friends; and
- if the applicant is from an agreement country and is aged between 26 and 30, or is from a non-agreement country, the entry of the applicant would be of benefit both to Australia and the applicant.

7.170 The working holiday maker scheme imposes various other restrictions:

- citizens of the United Kingdom, the Republic of Ireland, the Netherlands and Canada may apply for a working holiday maker visa in any country, while all other applicants must apply in their country of citizenship;
- applicants must not have dependent children;
- applicants must not have entered Australia previously as the holder of a working holiday maker visa;
- working holiday makers are permitted a maximum total stay in Australia of 12 months;
- working holiday makers are subject to the condition that they must not work for any one employer for more than three months, unless written permission is obtained from DIEA; and
- it is not possible to change status to working holiday maker after arrival in Australia.

7.171 In 1992-93, 25 557 working holiday makers visas were granted.[88] This figure increased to 29 600 in 1993-94[89] and 35 391 in 1994-95.[90] In this regard, as the Committee was finalising this report, the Minister announced on 1 December 1995 that the number of working holiday maker visas to be issued was to be capped at 38 000 in 1995-96, comprising 33 000 new working holiday maker visas to be granted overseas and 5 000 extensions of stay of 12 months for working holiday makers in Australia. Announcing the cap, the Minister said that

88 Minister for Immigration and Ethnic Affairs, Media Release B129/95, 1 December 1995, Canberra.

89 Commonwealth Department of Tourism, *National Backpacker Tourism Strategy*, Canberra, AGPS, 1995, p. 42.

90 Minister for Immigration and Ethnic Affairs, Media Release B129/95, 1 December 1995, Canberra.

he had decided to keep the program at 38 000 'to better control the impact of working holiday makers on opportunities for the long-term unemployed'.[91]

7.172 According to the Commonwealth Department of Tourism, working holiday makers bring substantial economic and other benefits to Australia. The Department noted that budget travellers participating in the working holiday maker scheme generally stay in Australia for an extended period, with their average expenditure ($3 267) being almost twice that of other visitors ($1 760).[92] As they also tend to disperse throughout Australia, there are particular benefits for regional areas which do not otherwise receive large numbers of international visitors.[93] Further, as working holiday makers generally are considered to be 'seasoned travellers', they also can play a valuable role in encouraging other travellers to visit Australia.[94]

7.173 Tourism Council Australia commented that working holiday makers also have enabled the Australian tourism industry to meet personnel shortfalls in the past.[95] In this regard, the Australian Duty Free Operators Association Limited gave the example of working holiday makers from Asia who have been employed in duty free stores, where their language skills have been useful in demonstrating the operation of merchandise to customers.[96]

7.174 Various tourism industry representatives suggested that the current working holiday maker arrangements do not maximise the benefits of the scheme for Australia. In its recent *National Backpacker Tourism Strategy*, the Department of Tourism suggested that the scheme was poorly publicised, particularly in those countries which do not have reciprocal arrangements with Australia.[97] The Department of Tourism claimed that, consequently, Australia may be missing major tourism opportunities in other markets.[98] The Department of Tourism suggested that the number of countries included in the scheme be extended, particularly to countries showing potential growth in backpackers such as the United States, affluent European countries and Scandinavia.[99] The ATC suggested that there was a need for further staff training and better communication with consumers about their entitlements under the scheme.[100]

---

91 ibid

92 Evidence, p S696

93 Evidence, p S696.

94 Evidence, p. S697

95 Evidence, p. S422.

96 Evidence, p S48.

97 Commonwealth Department of Tourism, *National Backpacker Tourism Strategy*, Australian Government Publishing Service, Canberra, 1995, p 42.

98 ibid

99 Evidence, p. S697.

100 Evidence, p S382

7.175 In addition, there were claims that the working holiday maker scheme lacks flexibility and, as such, does not cater sufficiently for the needs and circumstances of young travellers. The Department of Tourism, for example, commented on difficulties related to obtaining working holiday maker visas en route to Australia. It stated:

> This kind of travel is often characterised by minimal forward planning and being guided by word of mouth. It is, therefore, important that the traveller, who, for example, arrives in Bali and then decides to go on to Australia, be able to obtain a visa easily.[101]

7.176 The ATC claimed that there also were difficulties in meeting demand for working holiday maker visas worldwide, suggesting that there are limitations on the number of visas which can be issued in any given year.[102]

7.177 Among other proposed improvements to the scheme, the Department of Tourism suggested that the age limit of the scheme be modified to allow for persons aged up to 35 to obtain working holiday maker visas.[103] The Department also proposed that there be more flexibility to allow visitors to change status to working holiday maker after arrival in Australia. It was claimed that such a modification would improve the access of visitors to participation in voluntary work schemes.[104] The ATC suggested that working holiday maker visas be valid for fifteen instead of twelve months, to allow for a period of nine months employment and six months travel.[105]

7.178 By contrast to those who considered that the working holiday maker scheme should be extended, others cautioned that abuses of the scheme were occurring. A submission from Mr Peter Dodd MP, Member for Leichhardt, reported claims that some tourist operators circumvented the scheme by employing working holiday makers essentially on a permanent basis. It was alleged:

> The main method of circumvention is the device of transferring working holiday visa holders from one company to another, on the 'books' only, after 3 months, when the reality is that the holder of the visa is working for the same employer for a longer period.[106]

---

101 Evidence, p. S697.

102 Evidence, p. S382.

103 Evidence, p. S697.

104 *National Backpacker Tourism Strategy*, op. cit., p. 42. Evidence, p S699.

105 Evidence, p. S384.

106 Evidence, p S835.

7.179 In that submission, it was claimed that many Australians in North Queensland find it difficult to gain employment as guides for Japanese tourists, even if proficient in Japanese, because most of these positions were taken by Japanese nationals. It also was suggested that any relaxation in working holiday maker arrangements could have an adverse effect on the local labour market. It was stated:

> Employees in the tourism industry, already facing uncertainty because of the casual nature of their employment, must have the certainty that the spirit [and] the letter of the Australian immigration laws are followed.[107]

7.180 Further information relating to the operation of the working holiday maker scheme was provided to the Committee by Mr Rick Carr, a research fellow at James Cook University who gave evidence in his capacity as co-author of a study on Japanese nationals in the Cairns tourism industry.[108] The study examined policy issues associated with the employment of temporary residents, including working holiday makers, in the Cairns region. It was released in late 1984, based primarily on a survey of 80 employers in the local tourism industry.

7.181 Mr Carr noted that the study found that the employment of temporary residents has enabled the tourism industry to develop at a much faster pace than would otherwise have occurred, particularly in North Queensland.[109] At the same time, Mr Carr asserted that some Australian workers have been disadvantaged because of the resultant increased competition for jobs in some occupational sectors.[110] The study also gathered some evidence to suggest that certain working holiday makers are being recruited directly from their country of origin in order to undertake full time employment for the period of their stay in Australia, moving from one employer to another without a break. However, the extent of this practice was not quantified.[111]

7.182 It was suggested at an in camera hearing of the Committee that some working holiday makers are unaware of the conditions which attach to their visas, including the limitation on the time they can spend with any one employer. By way of example, it was claimed that some working holiday makers work continuously for nine or ten months, spending only the final two or three months of their visa period holidaying.

---

107 Evidence, p. S835.

108 Carr, R. and Bell, M., *Japanese Temporary Residents in the Cairns Tourism Industry*, Bureau of Immigration and Population Research.

109 Evidence, p. 506.

110 Evidence, p. 506.

111 Evidence, p. 505.

7.183 Other witnesses who gave in camera evidence suggested that Australians who are proficient in Japanese language and culture find it difficult to gain employment in the tourism industry because Japanese working holiday makers are willing to accept terms and conditions which are inferior to those Australians would receive if performing similar tasks. For example, it was alleged that some shop owners pay lower hourly rates to Japanese staff than to Australian staff, or simply do not employ Australians because they cannot afford proper rates of pay. It also was suggested that working holiday makers are willing to work shorter hours than local residents, because they need only earn enough money for basic expenses, with the result that they effectively limit full-time employment opportunities for Australians.

7.184 Other information was available in a 1995 study by Jill Murphy on the labour market effects of working holiday makers. That study concluded that the effects of working holiday makers on the Australian labour market are likely to be positive and small for the following reasons:

- working holiday makers are flexible in that most seem willing to do any work and their ease of finding employment is testimony to their flexibility. This indicates that working holiday makers will work where there are shortages of labour. Given their limited time and money, they are unlikely to compete for jobs where there is a low demand for temporary workers;

- most employers had no clear preference to hire working holiday makers, but many hired them because suitable locals were not available;

- given that working holiday makers are only allowed to be hired for three months, it is unlikely that employers would prefer to hire them for permanent work rather than locals;

- working holiday makers are concentrated in jobs that offer little in terms of training, pay, career opportunities or skill upgrading. A large proportion of jobs are temporary or seasonal. These may be seen as unattractive by locals, particularly if permanent work is desired;

- working holiday makers spend on average at least $8 230 each while they are here, which leads to growth in employment and the economy. This is high relative to ordinary tourists. The expenditure effects may impact on the labour market through the creation of jobs in many areas, most particularly in tourism and hospitality; and

- working holiday makers account for a very small share of employment (0.4 per cent) in the Australian labour market. In addition, similar numbers of young Australians depart for overseas as working holiday makers every year and this represents a displacement from the labour market of a similar magnitude. The overall effect of the working holiday maker scheme is therefore likely to be small.[112]

7.185 On possible future directions for the working holiday maker arrangements, the study suggested that:

- given that working holiday makers confer positive (even if small) benefits on the labour market, there are no grounds on this basis to restrict numbers of working holiday makers coming to Australia, regardless of the state of the economy;
- in light of the cultural benefits that accrue to Australian residents who come into contact with working holiday makers, as well as the advantages offered to young people who can travel overseas on a working holiday maker visa, Australians may benefit from a broadening of the scheme to include other countries;
- it could be argued that the length of stay should be increased, in order to maximise the benefits of the scheme for the Australian economy and on equity grounds, as most Australians who go overseas on a working holiday maker visa go to the United Kingdom and are permitted to stay there for two years;
- in light of the objective of the working holiday maker scheme, which is for young people to travel here for a holiday and to supplement their funds through incidental employment, a short term work limit is seen as necessary to ensure that this objective is being met; and
- the provision of full information regarding the state of the Australian economy would benefit working holiday makers and should be provided at overseas posts when potential working holiday makers make their applications for visas.[113]

112 Murphy, J., (Bureau of Immigration, Multicultural and Population Research), *The Labour Market Effects of Working Holiday Makers*, Australian Government Publishing Service, Canberra, 1995, pp 85-84.

113 ibid., pp. 84-86.

7.186 At the same time, it was acknowledged in the study that because the survey conducted had a limited focus, a more comprehensive study of the working holiday maker arrangements would be useful.[114]

Conclusions

7.187 The Committee recognises that the working holiday maker scheme brings various economic, social and cultural benefits to Australia. Many working holiday makers spend significant amounts of money while in Australia. Evidence was received to suggest that some working holiday makers have helped to meet personnel shortfalls in particular sectors of the Australian economy, including tourism. The scheme also provides an opportunity for cultural exchange and enrichment on the part of both Australians and working holiday makers themselves. Working holiday makers also can benefit Australia even after they have returned to their home country, by encouraging others to holiday in Australia.

7.188 While the working holiday maker arrangements were not a major focus of this inquiry, some suggestions were made to the Committee for extending those arrangements so as to increase the benefits which can accrue to the Australian economy. The Committee is sympathetic to the proposals made in this regard.

7.189 The Committee, however, is concerned by claims that some working holiday makers breach their conditions of stay by working with the same employer for more than three months and, in some cases, by working continuously during their period of stay in Australia. The Committee also was concerned about allegations that some employers exploit the working holiday maker arrangements either by using the scheme as a form of contract labour or by paying under-award wages to working holiday makers. When this occurs, there can be adverse consequences for the local labour market. Australian residents can find, for example, that this use of the working holiday maker arrangements effectively restricts their access to certain occupational sectors, such as the tourism industry.

7.190 Given the potential labour market implications of the working holiday maker scheme, and in light of alleged breaches of the scheme, any significant extension of the scheme must ensure that the interests of Australians are protected. Appropriate consultations on extending the scheme would need to be held with relevant organisations, including, for example, unions, employer groups, industrial relations agencies and tourism industry representatives. In the Committee's view, a comprehensive review of the working holiday maker arrangements should be undertaken in the next Parliament.

114 ibid., p 87.

7.191 A particular matter which should be considered as part of the proposed review is the current requirement which provides that certain nationals can apply for working holiday maker visas only in their country of citizenship. Some Committee members consider that this requirement is overly restrictive and is limiting the benefits of the scheme. The proposed review should determine whether this restriction is necessary or whether the arrangements should be modified to allow all prospective working holiday makers to lodge their applications in any country.

7.192 Pending the outcome of the proposed review, the Committee supports certain interim measures to improve the working holiday maker arrangements. The Committee agrees with the ATC's suggestion that working holiday maker visas be valid for 15 instead of 12 months, to allow for a total of nine months employment and six months travel. The Committee also considers that the Australian Government should enter into negotiations with other governments with the aim of establishing additional bilateral agreements which would allow for easier and improved access to working holiday maker arrangements for nationals of other countries visiting Australia and Australian citizens travelling abroad.

7.193 As for the claims that some working holiday makers breach the condition that they must not work for the same employer for more than three months, the Committee notes that DIEA should be notified of all such breaches in order to determine whether cancellation of a working holiday maker visa should result. Breaches of employment awards should be referred to the appropriate industrial relations agencies for further action.

Recommendations

7.194 **The Committee recommends that:**

33. in the next Parliament, a comprehensive review of the working holiday maker arrangements be undertaken, focusing particularly on whether existing restrictions on nationals applying for working holiday maker visas outside their country of citizenship should continue;

34. the working holiday maker arrangements be amended to allow for periods of stay of up to 15 months, involving up to nine months employment and six months holiday, but retaining the condition that the employment not be for more than three months with the one employer; and

35. the Australian Government enter into negotiations with other governments to increase the number of bilateral agreements relating to the working holiday maker arrangements, in order that nationals of other countries visiting Australia and Australian citizens travelling abroad can have easier and improved access to such arrangements.

Christmas Island

7.195 The Committee received submissions from Christmas Island Resort and the Christmas Island Tourism Board suggesting that the existing visa requirements for visitors coming to Christmas Island should be changed. As indicated in Chapter Four, under current arrangements special purpose visas are available for Indonesian citizens visiting the casino on Christmas Island. Persons who produce a valid Indonesian passport and carry a valid invitation to the casino are deemed to have a visa for entry and stay on Christmas Island for a maximum of five days.

7.196 Christmas Island Resort, which operates the $70 million casino and hotel complex on Christmas Island, proposed that visitor entry arrangements in relation to Christmas Island should be relaxed further. The Resort submitted that the Committee should give consideration to recommending that all visitors to Christmas Island be permitted visa free entry for a period of ten days.[115] The Resort argued that such a scheme would enhance the attractiveness of the Christmas Island casino for customers from Asia. It stated:

> Visa requirements to enter Christmas Island from South-East Asia inhibit the number of prospective gamblers who will use the Christmas Island casino when they can go to Genting or Macao casinos, or on any of the gaming ships without visas. Business and other visitors from Japan, Taiwan, Hong Kong or China who arrive in Indonesia and then decide to visit the Christmas Island casino are normally not able to do so because of the difficulties and time in procuring a visitor's visa to the island.[116]

7.197 According to the Resort, there is no reason why special provisions could not be made for Christmas Island, particularly as additional visits would bring advantages to the island and earn foreign currency for Australia.[117] It argued that the risk of people overstaying their visas would not arise on Christmas Island because of the island's size and isolation. In addition, the Resort asserted that visa free requirements would not impact adversely on entry arrangements to mainland Australia, since any visitors who enter Christmas Island under visa free arrangements would still have to present a passport and visa if they wished to enter the mainland.[118]

---

115 Evidence, p. S308.

116 Evidence, p. 571.

117 Evidence, p. 570.

118 Evidence, p. S311.

7.198 The Christmas Island Tourism Board agreed that the current visa requirement effectively discourages potential customers in South-East Asia from coming to Christmas Island. It suggested that a possible alternative to the current visa requirement could be the use of a 'dual card' system for all visitors, similar to that which operates in certain Asian countries. Under that system, passengers are required to fill out an arrival card, which records relevant information about the visitor, including name, passport number, and arrival and visit details. One half of the card is inserted in the visitor's passport and the other half is kept by immigration authorities. The second half of the card is surrendered by the visitor on departure, enabling it to be matched against the first half taken on arrival. The Christmas Island Tourism Board suggested that a 'dual card' system could be trialed on Christmas Island and could be extended to the whole of Australia.[119]

Conclusions

7.199 The special visa arrangements applying to visitors from Indonesia who travel to the Christmas Island casino recognise the unique position of Christmas Island and the importance of the casino to the island's economy. Such a concession is not available elsewhere in Australia. At this point in time, the Committee does not favour any further easing of visa requirements for Christmas Island. The Committee is of the view that the existing concession goes far enough in recognising the special and particular needs of Christmas Island.

Hells Angels

7.200 As noted in Chapter Four, during the inquiry the Committee considered evidence in relation to decisions by DIEA to refuse visitor visas to applicants who declare themselves to be members of the Hells Angels Motorcycle Club.

7.201 The Club asserted that DIEA effectively had taken a decision to ban Hells Angels members from entry to Australia. They stated that while the Full Federal Court had determined that Hells Angels membership may be taken into account by the Minister when assessing whether applicants satisfy the good character requirement, in reality this was the only attribute which was taken into account. They argued that Hells Angels members essentially were being refused visas because they were considered 'guilty by association', regardless of their individual characteristics.[120]

119 Evidence, p. 662.

120 Evidence, pp. 319-321.

7.202 In both its submission and subsequent oral evidence, the Club stated that it was not, and never has been, an international criminal organisation as claimed by DIEA. The Club asserted that DIEA never has produced credible evidence to support its claims in this regard. In evidence before the Committee, Club representatives stated:

> Because it is the members' position that [the Club] is not an international criminal organisation, it has no relationship with any sort of organised criminal activity, the members should be considered individually on their merits. It is their position that that is not happening. A number of people have applied who have no criminal record, who have been able to provide the usual indications of a normal and stable life—married, full-time employment . . . and able to produce from their local community other indications of their good character—and have been refused.[121]

7.203 By contrast, they noted that there was no objection to Hells Angels being refused visas where it was demonstrated that they had a criminal record:

> It has never been the submission of the Hells Angels that people should be allowed in just because they are Hells Angels. If they are a Hells Angel and they have a criminal history, then it is quite appropriate that they be prevented from entering because of their criminal history.[122]

7.204 When questioned by the Committee as to the criminal activities of Hells Angels members in Australia, the Club's representatives acknowledged that some Australian members had been charged with drugs-related offences. However, they noted that those persons were no longer members of the Club. Moreover, they stressed that in any case, the criminal actions of individual members should not be taken to indicate that the organisation was by nature a criminal organisation.[123]

7.205 The Club noted that in challenging DIEA's refusal decisions in the Courts, it had not been attempting to limit the Minister's decision-making powers. Rather, it sought to establish that the refusal decisions had failed to take into account the individual circumstances of members.

121 Evidence, p. 303.

122 Evidence, p. 306.

123 Evidence, pp. 320-323.

7.206 When questioned in relation to these matters, DIEA stated that individual circumstances had been taken into account in deciding applications from Hells Angels members. DIEA denied that it had effected a ban on the entry of Hells Angels to Australia (see also paragraph 4.81).[124]

Conclusions

7.207 The submission from the Hells Angels Motorcycle Club was aimed at overturning what the Club considered to be an effective ban on Hells Angels visiting Australia if they declare themselves to be Club members. The issue in dispute concerns declared Hells Angels members. Visitor visa applicants are not asked about their club affiliations, Hells Angels or otherwise, as part of the visitor visa application process. The evidence from DIEA was that the individual circumstances of known Hells Angels members were considered when deciding on their visitor visa applications. According to DIEA, there was no ban on Hells Angels members entering Australia.

7.208 The Committee was in no position—nor was it the role of the Committee—to reconsider individual visa applications. The Hells Angels case was considered in detail by the Federal Court (see paragraph 4.80). The Committee notes that the Federal Court found that the affiliations and associations of a person are relevant to an assessment of the person's good character.

7.209 The existing legislative provisions make it clear that the Minister has the authority to refuse visitor and other visas on character and conduct grounds. In the Committee's view, it is appropriate that the Minister has this power and that it be exercised by the Minister when the Minister sees fit. There is no need for any amendments to the power of the Minister to refuse visas on character grounds.

SENATOR JIM McKIERNAN
CHAIRMAN

January 1996

---

124 *Evidence*, p. 1173.

ADDENDUM BY THE RT HON IAN SINCLAIR, MP

In supporting the broad thrust of the Committee's recommendations, my view is that a trial of visa free travel to Australia is essential before a proper assessment can be made of how visitor entry to Australia should be managed in the future. As the forthcoming year 2000 Olympic Games in Sydney will place inevitable pressure on Australia's visitor entry arrangements, it is imperative that urgent attention be given to streamlining those entry arrangements. Unless a trial of visa free travel is conducted, it will be extremely difficult to determine whether the revised visitor visa arrangements provide the optimum framework for managing visitor entry to Australia, or whether a visa free travel regime would be a better option.

My recommendation is that a 12 month trial of visa free travel to Australia should be conducted for visitors from one of Australia's high volume tourist source countries whose nationals have demonstrated a low rate of visitor overstay. In my view, Japan would be the most appropriate country for such a trial, provided that arrangements can be established for the exchange of criminal intelligence information with Japan, to assist in safeguarding against the entry to Australia of criminals and their associates. The visa free trial would be an appropriate basis from which the parliamentary inquiry, proposed in the Committee's recommendation 2, could determine the optimum visitor entry arrangements for Australia.

Recommendations

I recommend that :

1. a 12 month trial of visa free travel be conducted for visitors from Japan who wish to enter Australia for periods of three months or less, with any extension of the visa free arrangement to be considered at the end of the trial;

2. the visa free trial be conducted as soon as appropriate arrangements can be established for the exchange of criminal intelligence information with Japan, to assist in safeguarding against the entry to Australia of criminals and their associates; and

3. the visa free trial be used as a basis for evaluating the future of Australia's revised visitor visa arrangements within the context of the parliamentary inquiry proposed by the Committee in its recommendation 2.

RT HON IAN SINCLAIR, MP

January 1996

BIBLIOGRAPHY

Australian Bureau of Statistics, *Overseas Arrivals and Departures*, various years.

Australian Bureau of Statistics, *Overseas Arrivals and Departures, June 1995*.

Bureau of Immigration Research (now Bureau of Immigration, Multicultural and Population Research), *Immigration Update*, various editions.

Bureau of Tourism Research, *International Visitor Survey, 1994*.

Carr, R. and Bell, M., *Japanese Temporary Residents in the Cairns Tourism Industry*, Bureau of Immigration and Population Research.

Chateris, A. H., 'Australian Immigration Laws and their Working', Institute of Pacific Relations Second General Session, July 1927.

Committee of Inquiry into the Temporary Entry of Business People and Highly Skilled Specialists, *Business Temporary Entry-Future Directions*, August 1995.

Commonwealth Department of Tourism, *National Backpacker Tourism Strategy*, Canberra, AGPS, 1995.

Department of the Arts, Sport, the Environment, Tourism and Territories, *Towards A National Tourism Strategy, A Background Paper*, Canberra, 1991.

Department of Immigration, *Australian Immigration Consolidated Statistics, 1970*.

Department of Immigration and Ethnic Affairs, *Annual Report 1994-95*, Australian Government Publishing Service, Canberra, 1995.

Department of Immigration and Ethnic Affairs, *Procedures Advice Manual 3*, Issue 8, 6 September 1995.

Department of Immigration and Ethnic Affairs, *Procedures Advice Manual 3*, Issue 10, 25 October 1995.

Department of Immigration, Local Government and Ethnic Affairs, Regional Office Special Report, *Residence Update*, Issue 5, 1990, September 1990.

Department of Immigration, Local Government and Ethnic Affairs, *Visitor Entry Handbook 1988*.

Goodwin-Gill, G. S., *International Law and the Movement of Persons Between States*, Clarendon Press, Oxford, 1978.

Hal, C. M., *Tourism in the Pacific Rim, Development, Impacts, and Markets*, Longman Cheshire, Melbourne, 1994.

Heilbronn, G. N., *Travel and Tourism Law in Australia and New Zealand*, The Federation Press, Sydney, 1992.

Joint Standing Committee on Migration, *Asylum, Border Control and Detention*, Australian Government Publishing Service, Canberra, 1994.

Joint Standing Committee on Migration Regulations, *Change of Status on Grounds of Spouse/De Facto Relationship*, Australian Government Publishing Service, Canberra, 1991.

Joint Standing Committee on Migration Regulations, *Conditional Migrant Entry, The Health Rules*, Australian Government Publishing Service, Canberra, 1992.

Millbank, A., Parliamentary Research Service, *Research Paper No. 13 1994, Global population movements, temporary movements in the Asia-Pacific region and Australia's immigration program*, Department of the Parliamentary Library, Parliament of the Commonwealth of Australia.

Murphy, J., (Bureau of Immigration, Multicultural and Population Research), *The Labour Market Effects of Working Holiday Makers*, Australian Government Publishing Service, Canberra, 1995.

Oppenheim, L., *International Law, A Treatise, Volume 1 - Peace* (eighth edition), Lauterpacht, H. (ed.), Longmans, London, 1963.

Organisation for Economic Cooperation and Development, *Forward to International Tourism and Tourism Policy in OECD Member Countries*, Paris, 1971.

Pacific Business Forum, Asia-Pacific Economic Cooperation, *A Business Blueprint for APEC*, October 1994.

Pacific Business Forum, Asia-Pacific Economic Cooperation, *The Osaka Action Plan: Roadmap to Realising the APEC Vision*, APEC Secretariat, Singapore, 1995.

Plender, R., *International Migration Law* (revised second edition), Martinus Nijhoff Publishers, The Netherlands, 1988.

Plender, R., 'Recent trends in national immigration control', 35 *International and Comparative Law Quarterly* 531, 1986; Nafziger, J. A. R., 'Review of visa denials by consular officials', *Washington Law Review*, Vol. 66, No. 1.

Report of the Task Force Appointed by the Prime Minister the Honourable E. G. Whitlam, QC, MP, *Review of the Continuing Expenditure Policies of the Previous Government*, Australian Government Publishing Service, Canberra, 1973.

Stahl, C., Ball, R., Inglis, C., Gutman, P., *Global Population Movements And Their Implications For Australia*, Bureau of Immigration and Population Research, Australian Government Publishing Service, Canberra, 1993.

Stein, T. and Thomsen, S., 'The Status of the Member States' Nationals under the law of the European Communities', Frowein, J. and Stein, T. (eds.), *The Legal Position of Aliens in National and International Law*, Springer-Verlag, Berlin, 1987.

Theys, M., *The Schengen Agreements on freedom of movement for persons in the European Union*, Ministry of Foreign Affairs, External Trade and Development Cooperation, Brussels, 1995.

Turack, D. C., 'Freedom of Movement and the Travel Document', *California Western International Law Journal*, Vol. 4, 1973.

Turack, D. C., 'Selected Aspects of International and Municipal Law Concerning Passports', *William and Mary Law Review*, Vol. 12, 1971.

United Nations Population Fund, *The State of the World Population 1993*, New York, UNFPRA, 1993.

United States House of Representatives Committee on the Judiciary, Subcommittee on International Law, Immigration, and Refugees, Transcript of hearing on the Visa Waiver Program, 11 August 1994, U.S. Government Printing Office, Washington.

Appendix One

SUBMISSIONS

No.	Name of person/organisation
1	P J Nelson & Co
2	Mr K Flack
3	Holy Spirit Missionary Sisters
4	Mr R Large
5	MudMaps Pty Limited
6	Milner International College of English
7	Ms A Crenan
8	Mr A Clarke
9	Mr G Campbell, MP
10	Mr J Jovanovic
11	Bio Recognition Systems Pty Ltd
12	Miller Harris Lawyers
13	The Australian Federation of Travel Agents Ltd
14	Mr R Tyson
15	Mr S Sharaf
16	Australian Duty Free Operators Association Ltd
17	Mr P Jones
18	confidential
19	Austral Slovenian Society 'Tivoli'
20	Mrs W Wardrop
21	Mrs L Thomson

22	Mr R Landau
23	Mr M Grimwood
24	Mr E Cope
25	Mr N Inglis
26	Ms V Campbell
27	Irish National Association of Australasia
28	Christmas Island Tourism Board
29	Gilton Business Consultants
30	Mr R Tacon
31	Brisbane Marriage and Relationship Consultants
32	confidential
33	Federation of Indian Associations of Victoria Inc.
34	J P Migration Services Pty Ltd
35	Universal Federation of Travel Agents' Associations
36	Tourism Task Force
37	North Eastern Region Migrant Resource Centre
38	Federal Airports Corporation
39	Tourism Victoria
40	Migrant Resource Centre (Northern Tasmania) Inc.
41	Dr J Streeton
42	Mr P Wardrop
43	Commonwealth Department of Human Services and Health
44	Ms M Stebbing
45	Australia India Society of Victoria Inc.

46	Tourism New South Wales
47	Mr I Komaravalli
48	Bureau of Ethnic Affairs, Queensland
49	Victorian Immigration Advice & Rights Centre Inc.
50	Hon G Ingerson, MP Minister for Tourism, South Australia
51	Ararat Chinese Heritage Society Inc. (attachments confidential)
52	confidential
53	Inbound Tourism Organisation of Australia Limited
54	The Western Australian Chinese Chamber of Commerce Inc.
55	International America's Cup Class
56	Federation of Ethnic Communities' Council of Australia
57	Stirling Henry Migration Services
58	Immigration Advice & Rights Centre Inc.
59	Department of Tourism, Sport and Racing, Queensland
60	Qantas Airways Limited
61	Christmas Island Resort
62	Advanced Information Technologies
63	South Brisbane Immigration & Community Legal Service Inc.
64	Hells Angels Motorcycle Club Inc.
65	confidential
66	Australian Federal Police
67	Association of Australian Convention Bureaux Inc.
68	Migration Institute of Australia Limited

69	Australian Tourist Commission
70	Western Australian Tourism Commission
71	Department of Commerce and Trade, Western Australia
72	International Air Transport Association
73	Northern Territory Government
74	Australian Tourism Industry Association
75	Australian Customs Service
76	Department of Foreign Affairs and Trade
77	Department of Immigration and Ethnic Affairs
78	confidential
79	Meetings Industry Association of Australia (National Council)
80	Ethnic Communities Council of Western Australia
81	Department of Transport
82	Commonwealth Department of Tourism
83	Jon M Axtens and Sons
84	confidential
85	Mr S Sharaf (supplementary submission)
86	Inbound Tourism Organisation of Australia Limited (supplementary submission)
87	Mr & Mrs P Wardrop (supplementary submission)
88	Australian Youth Hostels Association Inc.
89	Ms V Campbell (supplementary submission)

90	Bureau of Ethnic Affairs, Queensland (supplementary submission)
91	Mrs L Thomson (supplementary submission)
92	Western Australian Tourism Commission (supplementary submission)
93	South Australian Tourism Commission
94	Northern Territory Government (supplementary submission)
95	Ethnic Affairs Commission of New South Wales
96	Migration Institute of Australia Limited (supplementary submission)
97	Office of Regulation Review
98	Australian Customs Service (supplementary submission)
99	Qantas Airways Limited (supplementary submission)
100	Mr P Jones (supplementary submission)
101	Privacy Commissioner
102	Mr J Carroll
103	Mr N Excell
104	Commonwealth Department of Human Services and Health (supplementary submission)
105	Department of Immigration and Ethnic Affairs (supplementary submission)
106	National Crime Authority
107	Mr Peter Dodd, MP
108	confidential

109	confidential
110	Ms J McLucas
111	Premier of Tasmania
112	Eric Walsh Pty Ltd
113	Christmas Island Resort (supplementary submission)
114	Ethnic Communities Council of Western Australia (supplementary submission)
115	Premier of South Australia
116	confidential
117	confidential
118	Department of Immigration and Ethnic Affairs (supplementary submission)
119	Department of Immigration and Ethnic Affairs (supplementary submission)
120	Tourism Council Australia (supplementary submission)
121	Business Migration Services Pty Ltd
122	Eric Walsh Pty Ltd (supplementary submission)
123	Inbound Tourism Organisation of Australia Limited (supplementary submission)
124	Inbound Tourism Organisation of Australia Limited (supplementary submission)
125	Qantas Airways Limited (supplementary submission)
126	Qantas Airways Limited (supplementary submission)
127	Tourism Task Force

128	Tourism Victoria (supplementary submission)
129	Privacy Commissioner (supplementary submission)
130	Privacy Commissioner (supplementary submission)
131	Department of Immigration and Ethnic Affairs (supplementary submission)
132	confidential
133	Tourism Council Australia (supplementary submission)
134	Inbound Tourism Organisation of Australia Limited (supplementary submission)
135	confidential
136	Department of Foreign Affairs and Trade (supplementary submission) (attachments confidential)
137	Christmas Island Resort (supplementary submission)
138	Department of Transport (supplementary submission)
139	Department of Industries and Development (Northern Territory)
140	confidential
141	Commonwealth Department of Human Services and Health (supplementary submission)
142	Australian Federal Police (supplementary submission) (annex F confidential)
143	Australian Customs Service (supplementary submission)
144	Department of Foreign Affairs and Trade (supplementary submission)

145	**Department of Immigration and Ethnic Affairs (supplementary submission)**
146	**Australian Tourist Commission (supplementary submission)**
147	**Department of Immigration and Ethnic Affairs (supplementary submission)**
148	**Australian Tourist Commission (supplementary submission)**

Appendix Two

EXHIBITS

1. Department of Immigration and Ethnic Affairs, 'An Introduction to the Australian Visa System', March 1994.

2. Document from Tourism New South Wales entitled 'Growing market for education'.

3. Graphs relating to tuberculosis tabled by Dr Jonathan Streeton, Consultant Advisor on Tuberculosis to the State of Victoria.

4. Risk factor characteristics, Department of Immigration and Ethnic Affairs, Procedures Advice Manual 3, Issue 4, 10 November 1994, GenGuide H, p27.

5. Article from the *Sun Herald* newspaper dated 24 July 1994 entitled 'Immigration bribe probe'.

6. Immigration Review Tribunal statistics relating to applications for review of refusals of close family visitor visas, 9 November 1990 to 30 May 1994.

7. Western Australian Tourism Commission, Facts and Figures in Brief About Visitors to Western Australia in 1993/94.

8. Tourism Council Australia, World and Australian Tourism Statistics, January 1995.

9. United Nations Economic and Social Council, 'Problems and Dangers Posed by Organized Transnational Crime in the Various Regions of the World', 18 August 1994.

10. Department of Foreign Affairs and Trade, US-Australia Immigration Statistics, 23 May 1995.

11. Letter dated 22 August 1994 from Aziza Taher, Secretary, Eritrean Community in ACT to Mr Jas Manocha, Ethnic Communities Council of ACT regarding Australia's visa system for visitors.

12. World Travel and Tourism Council, Travel and Tourism's *FAST* Lane, Future Automated Screening for Travellers, February 1995.

13. Australian Tourism Commission, 'Safety and the Choice of Tourism Destinations'.

14. Documents from the Australian Tourist Commission:

- Executive summaries of the Australian Tourism Commission's 1994 Visitor Satisfaction Studies for Hong Kong, Malaysia, Taiwan and the United Kingdom;
- the Australian Tourism Commission's Research Register, March 1995; and
- summary of outcomes of the Seatrade Cruise Shipping Convention, Miami, Florida, 7-11 March 1995.

15. Documents tabled by Ms Rosemary Banks, Deputy High Commissioner, New Zealand High Commission, Canberra, Australia:

- extract from the New Zealand Yearbook 1995;
- incoming passenger statistics for 1993-94;
- overstayer statistics for 1991-1994;
- visitor visa information;
- leaflet entitled 'visiting New Zealand'.

16. Department of Immigration and Ethnic Affairs, 'Advance Passenger Clearance System', Canberra, August 1995.

17. Department of Immigration and Ethnic Affairs, 'Movements Alert List', July 1995.

Appendix Three

WITNESSES AT PUBLIC HEARINGS

Witnesses/Organisation	Date(s) of appearances
Individuals	
Dr Jonathan Streeton	15.3.95
Mr Richard Carr	12.4.95
Ararat Chinese Heritage Society Incorporated	
Mr Donald Reynolds Chairman	15.3.95
Australian Customs Service	
Mr Guy Harrison National Manager, Passenger Processing	24.5.95
Mr John Howard Director, Passenger Processing Review	24.5.95
Mr Lionel Woodward Chief Executive Officer	24.5.95
Australian Federal Police	
Mr Alan Mills Assistant Commissioner, Investigation Department	24.5.95
Detective Superintendent Gary Symons Requirements and Liaison Branch	24.5.95
Detective Superintendent Barry Young Asia-Pacific Crime Analysis Branch	24.5.95

Australian Federation of Travel Agents

Mr John Dart — 21.2.95
Chief Executive

Australian Tourist Commission

Ms Margaret Hudson — 16.3.95
Manager, External Policy

Mr John Morse — 16.3.95
A/g Managing Director and Regional Director, Asia

Bio Recognition Systems Pty Ltd

Mr Michael Milne Home — 21.2.95
Marketing and Sales Director

Mr Harry Neelam — 21.2.95
Marketing and Communications Manager

Christmas Island Resort

Mr Stephen Bland — 18.5.95
International Marketing Manager

Mr Peter Cullen — 18.5.95
Consultant

Mr Geoffrey Taylor — 18.5.95
General Manager

Christmas Island Tourism Board

Ms Margaret Campbell — 18.5.95
Tourism Coordinator

Department of Commerce and Trade (Western Australia)

Ms Sonia Grinceri — 18.5.95
Senior Project Officer, Investment Attraction Branch

Mr Quentin Harrington — 18.5.95
Director, Economic Policy Unit

Department of Foreign Affairs and Trade

Mr David Ambrose — 23.5.95
Assistant Secretary, Regional Policy and Projects Branch
South and South-East Asia Division

Mr Robert Hamilton — 23.5.95
Director, Consular Policy Section

Mr Christopher Lamb — 23.5.95
Legal Adviser and Assistant Secretary
Refugees, Immigration and Asylum Section

Miss Margaret McGovern — 23.5.95
Principal Adviser
International Organisations and Legal Division

Mr Gordon Miller — 23.5.95
Director, Refugees, Immigration and Asylum Section

Mr Francis Reilly — 23.5.95
Immigration Liaison Officer
Refugees, Immigration and Asylum Section

Commonwealth Department of Human Services and Health

Dr Bronwen Harvey — 22.5.95
Director, Prevention and Care Unit

Mr Ian Haupt — 22.5.95
Assistant Secretary, Australian Government Health Service

Dr Michael Pincus — 22.5.95
A/g Director, Migrant Medical Clearance Unit

Mr Philip Tuckerman — 22.5.95
Director, International Regional Development Section

Department of Immigration and Ethnic Affairs

Mr Edward Killesteyn — 24.5.95, 1.6.95
First Assistant Secretary
Overseas Client Services Division

Mr Roy Muir — 24.5.95, 1.6.95
Director, Passenger Processing Review Section

Mr David Page — 24.5.95, 1.6.95
Assistant Secretary
Decision Support and Overseas Client Services Branch

Mr Mark Sullivan — 24.5.95, 1.6.95
Deputy Secretary

Department of Industries and Development
Ministry of Asian Relations and Trade (Northern Territory)

Ms Mary Cunningham — 19.5.95
Director, Ministerial Liaison and Executive Support

Department of Premier and Cabinet (South Australia)

Mr Francis Wyatt — 19.5.95
Assistant Director, Intergovernment Relations

Commonwealth Department of Tourism

Mr Michael Edwards — 23.5.95
Director, International Section
International and Industry Development Branch

Ms Jennifer Harrison — 23.5.95
Assistant Secretary
International and Industry Development Branch

Mr Lewis Ramsay — 23.5.95
Project Officer, International Section

Mr Raymond Spurr — 23.5.95
A/g First Assistant Secretary, Tourism Division

Department of Transport

Ms Anne Buttsworth — 22.5.95
Principal Adviser, Aviation Division

Mr Barry McAdie — 22.5.95
Director, Special Projects, Aviation Division

Mr Christopher Samuel — 22.5.95
Director, Asia and New Zealand Section
International Relations Branch, Aviation Division

Mr Bruce Stark — 22.5.95
Director, Intelligence and Training
Aviation Security Branch, Aviation Division

Ethnic Affairs Commission of New South Wales

Mr John Brennan — 16.3.95
A/g Director, Policy and Liaison

Mr Stepan Kerkyasharian — 16.3.95
Chairman

Ethnic Communities Council of the ACT

Mr Harold Grant — 23.5.95
Associate Member

Ethnic Communities Council of Western Australia

Ms Pendo Mwaiteleke — 18.5.95
Senior Policy Officer

Mr Ramdas Sankaran — 18.5.95
Executive Officer

Federal Airports Corporation

Mr John Milton — 20.2.95
Manager, ACT

Mr Peter Snelling — 20.2.95
General Manager, Operations

Federation of Ethnic Communities' Council of Australia

Mr Jas Manocha Network Convener on Immigration	23.5.95

Federation of Indian Associations of Australia

Mr Noor Dean Executive Committee Member	15.3.95
Mr Uday Dhumatkar General Secretary	15.3.95
Dr Suraj Bali Kashyap Executive Officer	15.3.95
Dr Raman Marar President	15.3.95

Hells Angels Motorcycle Club

Mr Leslie Phillips President	15.3.95
Mr Heiko Krueger Treasurer	15.3.95
Mr John O'Sullivan Solicitor	15.3.95

Human Rights and Equal Opportunity Commission

Mr Kevin O'Connor Privacy Commissioner	16.3.95

Immigration Advice and Rights Centre

Mr Peter Blair Solicitor	21.2.95
Ms Marg Le Sueur Caseworker	21.2.95

Inbound Tourism Organisation of Australia Limited

Mr Laurence Stroud ACT Representative	21.2.95
Mr Leonard Taylor Managing Director	21.2.95

India Australian Community Association

Mr Percy Fernandez Delegate	15.3.95
Mr Stanislaus Theobold Delegate	15.3.95

Japanese Association of Tourism Wholesalers' Committee

Mr Eric Walsh Consultant	22.5.95

Meetings, Incentives, Conventions and Exhibitions Industry Council of Australia

Mr William Spurr President	19.5.95

Migration Institute of Australia

Mr Thomas Drakopoulos National President	12.4.95
Mr John Hodges Member, National Executive Chairman, Queensland Branch	12.4.95

National Crime Authority

Ms Jeannine Jacobson Director, Policy	23.5.95
Mr Tom Sherman Chairperson	23.5.95

Office of Regulation Review

Ms Barbara Aretino Research Officer	22.5.95
Mr Paul Coghlan Assistant Commissioner	22.5.95

Qantas Airways Limited

Mr Derek Baines Market Development Manager	20.2.95
Ms Jackie Foggitt Manager, Inbound Tourism Chairman, Inbound Tourism Organisation of Australia	20.2.95
Mr Neville Kitto Manager, Government Affairs	20.2.95
Mr Trevor Long Manager, Customs and Facilitation	20.2.95
Mr Brian O'Donnell Airport Facilitation Services Manager	20.2.95

South Australian Tourism Commission

Mr Roger Freeman Chief Policy Officer	19.5.95

South Brisbane Immigration and Community Legal Service

Ms Nitra Kidson Solicitor	12.4.95

Stirling Henry Migration Services

Mr Robert Stirling Henry Director	20.2.95

Tourism Council Australia

Hon Bruce Baird Managing Director	22.5.95
Mr Steven Holle Manager, Policy and Research	22.5.95
Mr Peter O'Clery National Executive Director	22.5.95

Tourism New South Wales

Mr Geoffrey Buckley Director, Strategic Planning	21.2.95

Tourism Task Force

Mr Christopher Brown Chief Executive	21.2.95
Mr Peter Nichols Member	21.2.95

Tourism Victoria

Mr Christopher Bate Senior Policy Adviser	15.3.95
Mr Philip Harman Marketing Operations (Research Analyst)	15.3.95
Mr Michael Lego General Manager, International Markets	15.3.95

Victorian Immigration Advice and Rights Centre

Mr Seth Richardson	15.3.95

Western Australian Chinese Chamber of Commerce Inc.

Mr Ron Jee Vice President	18.5.95
Mr David Jolly Council Member	18.5.95
Mr Nicholas Kee Council Member	18.5.95
Mr Roger Kwok Council Member	18.5.95
Mr Siew Chye Lee Council Member	18.5.95
Ms Sharon Leung Director of Promotions	18.5.95
Mr T S Su Assistant Honorary Secretary	18.5.95
Mr Lon Tran Council Member	18.5.95
Mr James Wong Executive Director	18.5.95
Mr Wilson Wu Deputy Vice President and Chairman, Trade Committee	18.5.95
Mr Jimmy Yong Honorary Secretary	18.5.95

Western Australian Tourism Commission

Mr Terence McVeigh Director, Policy, Planning and Development	18.5.95

Appendix Four

ESTIMATE OF UNLAWFUL NON-CITIZENS IN AUSTRALIA AS AT 30 JUNE 1995 BY CITIZENSHIP AND VISA CATEGORY

COUNTRY OF CITIZENSHIP	VISITORS	STUDENTS	TEMPORARY RESIDENTS	OTHER (iii)	TOTAL
UK	4006	57	1083	1023	6168
USA	4400	30	383	176	4990
JAPAN	2001	77	325	215	2618
CHINA, Peoples Rep.	671	896	119	681	2366
INDONESIA	1645	470	85	164	2363
PHILIPPINES	1174	31	70	598	1874
GERMANY	1555	10	75	96	1737
FIJI	1356	135	45	137	1673
MALAYSIA	1105	373	37	148	1663
KOREA	842	318	66	175	1401
FRANCE	1079	9	88	81	1257
VIETNAM	302	33	4	887 (iv)	1226 (iv)
THAILAND	791	146	27	63	1027
INDIA	529	48	90	279	945
NETHERLANDS	728	4	77	117	926
CANADA	742	6	126	46	921
SINGAPORE	724	76	16	103	919
TONGA	818	54	17	21	909
USSR	696	1	113	90	899
GREECE	577	1	24	236	839
ITALY	612	3	95	109	820
HONG KONG (i)	407	215	22	76	720
LEBANON	561	0	19	134	714
IRELAND	332	2	214	97	645
TAIWAN	451	100	15	73	639
SRI LANKA	352	106	19	138	615
YUGOSLAVIA	479	1	37	64	581
STATELESS (i)	414	50	7	67	538
IRAN	373	69	20	40	502
PAKISTAN	288	94	18	48	448
SWEDEN	364	3	43	21	432
POLAND	348	1	15	57	420
SWITZERLAND	357	7	18	15	397
WESTERN SAMOA	343	11	5	22	382
PAPUA NEW GUINEA	222	44	13	44	323

COUNTRY OF CITIZENSHIP	VISITORS	STUDENTS	TEMPORARY RESIDENTS	OTHER (iii)	TOTAL
SOUTH AFRICA	250	5	14	42	311
TURKEY	218	14	14	58	304
ISRAEL	260	3	24	15	302
PORTUGAL	172	10	6	99	287
DENMARK	181	3	21	67	271
CHILE	192	1	9	57	259
AUSTRIA	212	1	9	20	242
SPAIN	161	2	30	23	216
BANGLADESH	127	34	6	24	191
BRAZIL	162	5	8	14	189
NORWAY	72	3	13	79	167
HUNGARY	104	0	11	21	136
EGYPT	94	3	5	24	127
IRAQ	108	8	3	5	124
FINLAND	79	4	27	7	117
BELGIUM	95	2	7	13	116
ARGENTINA	89	0	16	9	115
MAURITIUS	75	4	0	27	106
BURMA	57	12	5	32	105
NAURU	96	4	1	4	105
OTHER	1694	184	137	606	2620
TOTAL	36144	3784	3794	7584	51307

N.B. Sums of components may not add to totals due to rounding.
(i) Persons travelling on other than a national passport.
(ii) Includes British Dependant Territory Citizenship.
(iii) Includes transitees, unauthorised boat arrivals.
(iv) Includes 335 male & 306 female ethnic Vietnamese boat arrivals from PRC.
Datasource: TEMPORARY ENTRY, VISITORS & STUDENTS SECTION
DIEA Sept 1995 (0950808)

Note: June 1995 figures are not comparable with previous estimates due to the effect of the bridging visa regime introduced under the Migration Reform Act on 1.9.1994. Applicants for further visas and those without a valid visa who come to the Department's attention and who are not placed in detention are now made lawful via the grant of a bridging visa. They were previously considered unlawful for the purpose of this table.

Appendix Five

1.10.93 - 30.9.94 VISAED VISITOR ARRIVALS UNLAWFUL AT 16.7.95

COUNTRY OF CITIZENSHIP	ARRIVALS (Oct 93 - Sept 94)	UNLAWFUL (At 16.7.95)	OVERSTAY RATE
Iran	1170	34	2.9%
Colombia	632	11	1.8%
Western Samoa	1712	29	1.7%
Vietnam	2199	36	1.6%
Tonga	2319	27	1.2%
Kiribati	541	6	1.1%
Pakistan	1421	16	1.1%
Burma	610	7	1.1%
Lebanon	2737	23	0.9%
Poland	2891	24	0.8%
Turkey	1822	14	0.8%
Sri Lanka	4637	35	0.8%
Chile	1737	12	0.7%
Solomon Islands	1720	10	0.6%
Yugoslavia, Fed. Rep. of	1892	11	0.6%
China	21297	115	0.5%
Uruguay	620	3	0.5%
Israel	5524	25	0.4%
Philippines	16858	75	0.4%
Greece	5690	25	0.4%
Saudi Arabia	544	2	0.4%
Fiji	13694	58	0.4%
Brazil	3171	13	0.4%
Nauru	2466	10	0.4%

COUNTRY OF CITIZENSHIP	ARRIVALS (Oct 93 - Sept 94)	UNLAWFUL (At 16.7.95)	OVERSTAY RATE
Portugal	3474	13	0.4%
Ukraine	514	2	0.4%
Mexico	2182	7	0.3%
India	12133	40	0.3%
Egypt	947	3	0.3%
Ireland	13783	38	0.3%
Malta	1146	3	0.3%
Cyprus	970	2	0.2%
Croatia, Rep.of	1236	3	0.2%
Zimbabwe	1502	4	0.2%
Mauritius	2055	5	0.2%
Slovenia, Rep of	772	2	0.2%
Vanuatu	1325	3	0.2%
South Africa	25473	56	0.2%
Indonesia	71800	155	0.2%
Russian Federation	3244	7	0.2%
Canada	48591	95	0.2%
Spain	5716	11	0.2%
France	52948	97	0.2%
Thailand	53474	86	0.2%
Stateless (i)	23007	34	0.1%
United Kingdom	328823	483	0.1%
Netherlands	30964	44	0.1%
Papua New Guinea	15223	22	0.1%
Austria	15298	22	0.1%
Brunei	1774	2	0.1%
Norway	5169	7	0.1%

COUNTRY OF CITIZENSHIP	ARRIVALS (Oct 93 - Sept 94)	UNLAWFUL (At 16.7.95)	OVERSTAY RATE
Germany	117941	134	0.1%
U.S.A	263347	290	0.1%
Belgium	5542	6	0.1%
Sweden	18532	20	0.1%
Denmark	12895	13	0.1%
Switzerland	30151	31	0.1%
Korea, Rep. of	94998	96	0.1%
Malaysia	86576	80	0.1%
Italy	34943	31	0.1%
Argentina	3683	3	0.1%
Singapore	132801	102	0.1%
Hong Kong	39735	28	0.1%
Finland	5453	4	0.1%
Hungary	2004	1	0.0%
Taiwan	135076	40	0.0%
Japan	685003	200	0.0%
Korea, Dem. People's Rep	632	0	0.0%
Czechoslovakia (so stated)	1448	0	0.0%
Others	13056	91	-
TOTAL	2505263	3035	0.1%

(i) Persons travelling on other than a national passport.
Data source: Temporary Entrants Profile Program, TRIPS Database.
TEMPORARY ENTRY, VISITORS & STUDENTS SECTION, DIEA. August 1995 (0950808v)

Note: These rates are not comparable with those previously published due to the effect of the bridging visa regime introduced under the Migration Reform Act on 1.9.1994. Applicants for further visas and those without a valid visa who come to the Department's attention and who are not placed in detention are now made lawful via the grant of a bridging visa. They were previously considered unlawful for the purposes of this table.