Migration Institute of Australia

17 December 2012

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

By email: legcon.sen@aph.gov.au

Dear Sir/Madam,

Thank you for the opportunity to provide a submission to the Senate Legal and Constitutional Affairs Committee inquiry of the *Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012*.

Please find attached a submission from the Migration Institute of Australia (MIA). The MIA is the peak body for migration advice professionals, representing more than 2000 Registered Migration Agents (RMAs) across Australia and overseas. The MIA holds interests in all areas of migration policy development and would appreciate the opportunity to contribute to future consultations regarding the Inquiry.

Yours sincerely,

Maurene Horder
Chief Executive Officer
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The Migration Institute of Australia (MIA) does not support the *Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012.* The intent of discouraging asylum seekers from undertaking hazardous voyages is commendable but it has undesirable implications and consequences for potential refugee claimants which cannot be justified.

It is the longstanding position of the Institute that every asylum seeker who reaches Australia – including any reaching an "excised territory" – should be processed onshore, regardless of country of origin or method of entry and that Australia can and should increase its intake of refugees.[1] In comparison to other countries, Australia does not rank highly in relation to its intake of refugees. According to the Edmund Rice Centre, 71 countries accept refugees and asylum seekers in some form or other, and Australia is ranked 32nd in total numbers;[2] on a per capita basis, Australia is ranked 38th, slightly behind Kazakhstan, Guinea, Djibouti and Syria;[3] of the 29 developed countries that accept refugees and asylum seekers, Australia is ranked 14th.[4]

As articulated in a MIA Media release, the MIA is troubled by reports from Amnesty International Australia of inadequate conditions for asylum seekers housed in Nauru, and fears more of the same for asylum seekers on Papua New Guinea's Manus Island.[5] The negative reports of overcrowded tents, dangerous levels of heat and humidity, and increasing risks of self harm and suicide for long term detainees in Nauru, are particularly damning given: the poor record of offshore processing during the previous "Pacific Solution" incarnation; the lack of any demonstrable "deterrence" of new asylum seekers; and the astronomical cost of processing asylum seekers who reach Australia offshore. About 20 percent of MIA Members work in the refugee and humanitarian area, and anecdotal feedback provided by them is that offshore processing is having a detrimental effect on asylum seekers, and is not working effectively.

[1] This view was also articulated in a MIA submission on 19 July 2012 to the Expert Panel on Asylum Seekers, and the MIA
submission on 31 January 2012 to the Department of Immigration and Citizenship (DIAC) Information Paper on Australia's Humanitarian Program: 2012–13 and beyond.
[2] *Just Comment* – A joint publication of the Edmund Rice Centre for Justice and Community Education and the School of Education, Australian Catholic University, "Debunking the myths about Asylum Seekers", Special Edition, September 2011.
[3] Ibid.
[4] Ibid.
[5] MIA media release 21 November 2012.

The MIA is of the view that the protection of all refugee and other humanitarian applicants' safety and dignity is paramount, and greater consideration should be given to upholding the principles enshrined in the *1951 United Nations Convention relating to the Status of Refugees* (the Convention). The MIA submits that the application of offshore processing and the Bill does not assign appropriate importance to the protection of all refugee and other humanitarian applicants' safety and dignity, and may actually contravene the principles enshrined in the Convention. Although some of the offshore processing countries may be signatories to the Convention, it is not clear whether their domestic law complies with the Convention. The MIA further submits that the ceding of the migration zone to offshore countries could also therefore be a breach of the Convention.

Accordingly, the MIA does not support the Bill. We would suggest that any processing offshore would be far better if it were possible before claimants embark on the hazardous journey to Australia and Australian resources were directed towards UNHCR efforts towards resettlement.