



Department of Immigration and Multicultural Affairs

Dr J Carter
Sectional Committee Secretary
Joint Committee of Public Accounts and Audit
Parliament House
CANBERRA ACT 2600

Dear Dr Carter

I refer to your letters of 5 and 21 September and your fax of 27 September in which you advised that the Committee seeks information in relation to the public hearing on 18 August and their subsequent briefing on Thursday Island.

I have attached the Department's response to the questions put by the Committee.

Yours sincerely

Andrew Metcalfe
Deputy Secretary

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ISSUES ARISING FROM THE SUBMISSION

Attribution of Coastwatch funding

The majority of Coastwatch surveillance flights are, and need to be, multi-tasked – that is they look to the interests of the various client agencies. Each flight must have the capacity to respond to situations which develop during the course of a flight – ie. if there is a sighting of a SIEV then there is a reasonable expectation that investigation of that SIEV would (at least temporarily) become a priority. Similarly if intelligence were received which suggested an incursion in a particular area then there would be an expectation that flying against that intelligence would become a priority in the deployment of Coastwatch assets. DIMA recognises that a situation could develop where there were competing ‘spontaneous priorities’ – eg. a marine pollution problem and a SIEV incursion. In this instance Coastwatch might have to make judgements about deployment of additional assets to manage this contingency.

Surveillance taskings are not predictable in character and it would be difficult to disaggregate flying time against individual agency interests in a way that could be plotted, implemented and acquitted in a predictable and discrete fashion.

There may be circumstances where specific surveillance priorities are identified which warrant or attract a specific funding package. The decision by the Government to allocate funds to DIMA for two additional Dash 8 aircraft and a night capable helicopter in the Torres Strait is a case in point. That decision reflected both the intense focus on the burgeoning volume of unauthorised arrivals in 1999 and the need to boost surveillance capability as a consequence. The funds transfer arrangements between DIMA and Coastwatch are consistent with the multi-tasking approach to the utilisation of airborne assets.

Tasking of Coastwatch

As a Coastwatch client DIMA provides strategic taskings for the long term strategic surveillance flying and sailing programs. The majority of detections of suspected illegal entry vessels are made during strategic flights.

The Department does not have any unmet expectations of Coastwatch.

Suspect illegal flights

It is in Australia’s national interest not only to protect the maritime border but also Australian airspace. As the Department advised in its submission of 16 June 2000 the inherent difficulties in enforcing applicable Commonwealth law to the interception of suspect illegal flights relate to enforcing a request to land for boarding by an aircraft that is suspected of being involved in an unlawful activity.

The interception and boarding of a vessel at sea is undertaken by RAN patrol boats or Australian Customs Vessels that carry arms. Legislation provides that reasonable means consistent with international law may be used to enable boarding a chased ship including using necessary and reasonable force and, where necessary and after

firing a gun as a signal, firing at or into the chased ship to disable it or compel it to be brought to for boarding.

Legislation also provides powers that enable a commander of a Commonwealth aircraft to intercept an aircraft for the purposes of identification and to request on aircraft to land for boarding. However, it would be extremely difficult for a civilian aircraft to conduct an air-to-air pursuit and enforce a request to land for boarding. In addition, there needs to be radar coverage of the areas of concern to enable monitoring of the airspace to detect suspected illegal flights and to vector the pursuit aircraft to the aircraft suspected of being involved in unlawful activity.

The issue of suspect illegal flights is of concern to DIMA in terms of our responsibilities for managing the entry of people to Australia and preventing unauthorised entry.

As advised at the hearing on 18 August 2000, DIMA has no evidence at present to suggest that this is a problem of major proportions from an unauthorised entry perspective. The question of whether the problem is of sufficient magnitude to warrant investment in some form of heightened response capability is outside DIMA's portfolio expertise and responsibility. The Department's submission of 16 June 2000 noted the work being undertaken by the Australian Defence Force (Headquarters Northern Command) and Coastwatch in this area and the threat assessment which has been commissioned by the Australian Customs Service. Once the nature and extent of the problem is identified, DIMA will be in a position to assess options and make appropriate recommendations to manage the border integrity implications of these incursions.

If it is deemed necessary to develop a heightened response capability, DIMA would work together with other agencies in developing a whole of government approach to the issue (as occurs with unauthorised boat arrivals) and in managing the unauthorised entry aspects of the problem.

The Border Protection legislation enacted in December 1999 made specific provision to enable identification of an aircraft, to request it to land for boarding and to board and search an aircraft; to the extent that international law permits.

INFORMATION REQUESTED BY THE COMMITTEE ON 21 SEPTEMBER

Development of bilateral agreements to address illegal migration

Papua New Guinea

Australia signed a Memorandum of Understanding with Papua New Guinea in February 1994. Under the terms of the agreement, people who cross the international border illegally in the Torres Strait will be returned.

People's Republic of China

In 1995 a Memorandum of Understanding was signed between Australia and the PRC. It related to the return of Sino-Vietnamese refugees resettled in the PRC and for whom the PRC continues to provide protection. This agreement has been renewed twice since then.

Indonesia

The Minister visited Indonesia on 31 January 2000 to continue the dialogue between Australia and Indonesia on cooperative ways of dealing with illegal immigration and people smuggling. Mr Ruddock met with Indonesian Ministers and senior Indonesian officials and explored a range of initiatives designed to expand the level of practical cooperation between Australia and Indonesia on these issues. Ministers agreed to negotiate a broad framework arrangement to further enhance the capacity of both countries to address the mutual problem of illegal immigration and people smuggling. It is hoped that these negotiations can be brought to an early conclusion.

INFORMATION REQUESTED BY THE COMMITTEE ON 27 SEPTEMBER

Measures taken to combat people smuggling

Legislative Amendments

In 1999, the Migration Act was amended to increase penalties for people smuggling offences. From a maximum two year penalty, the offences now carry penalties ranging from up to 10 years for assisting five or fewer people to 20 years imprisonment for smuggling more than people.

To date, it has principally been Indonesian crew that have been prosecuted under the new provisions but as more people are prosecuted under section 232A, longer sentences are being handed down in recognition of the seriousness of the offences.

On 11 April 2000, a crew member from the "Yule" vessel, which brought 140 unauthorised arrivals to Australia on 20 October 1999, was sentenced to five and a half years imprisonment.

In a later case, on 19 May 2000, a crew member of the "Donnybrook" vessel, which brought 281 unauthorised arrivals to Australia on 1 February 2000, was prosecuted and received a seven year sentence (three and a half years non-parole).

Whole of Government Approach

Following the Prime Minister's Coastal Surveillance Taskforce there has been a whole of government approach to people smuggling, which has increased the cooperation between several agencies, most notably DIMA, Customs and AFP as well as the Australian Intelligence Community.

Expansion of Compliance Network

In recognition of the benefits of prevention and disruption, additional resources have been provided to expand the compliance network. See attachment.

Compliance officers are responsible for liaising with host government authorities, foreign counterparts and other agencies at post with a view to exchanging intelligence and information relating to organised illegal immigration and malpractice. They also provide training to airlines and other agencies on Australia's entry and visa requirements, document fraud and passenger assessment.

Expansion of the Airline Liaison Officer (ALO) Network

The ALO network has also been expanded (see Attachment). ALOs play an important role in detecting inadmissible passengers who are attempting to board aircraft bound not only for Australia but also other destinations such as Europe and North America. In addition to advising airlines in relation to inadequately documented passengers, ALOs also facilitate the travel to Australia of inadequately documented genuine travellers and provide training to airline staff and other relevant agencies including local immigration staff. ALOs played an important role in facilitating the travel to Australia of Olympic Family Members as well as the increased number of passengers travelling over the Olympic period.

One of the major impediments to the effectiveness of ALOs is the lack of airside access. Currently in all locations except Singapore the ALO has full airside access.

Media Campaign

DIMA has conducted a worldwide media campaign to inform smugglers of the increased penalties and potential unauthorised arrivals of the considerable risks involved in seeking to enter Australia illegally, especially by boat.

Three video media releases containing real life messages of warning from people who arrived in Australia illegally are being distributed to international networks and media in various source and transit countries.

International Cooperation

Australia has engaged a number of countries (both source and transit countries) in discussions and is seeking to enter into useful agreements concerning the return and interception of people smugglers and their clients.

Delegations have visited Tehran, Islamabad and Jakarta. In addition to seeking return agreements Australia has also offered technical assistance in terms of document examination training and information exchanges in order that these and other countries engage the problem of people smuggling.

Overseas Border Control Assistance

Laos

DIMA has been providing assistance to the Government of Lao PDR to computerise their border operations. The aim of the project was to improve the efficiency and reliability of immigration control procedures in Lao PDR through a program of institutional strengthening and the provision of a basic computerised border processing system. The Lao Immigration Department now has the ability to electronically record all movements into and out of the country. This gives the Lao the ability know who has been in the country and when and where a person entered and departed. This has enabled the Lao to maintain their border integrity with an increasing number of movements and produce statistics reports on those movements to assist in the economic planning of the country.

East Timor

DIMA is co-operating with the International Organisation for Migration (IOM) in developing a project in East Timor to develop the foundations of an immigration service. It is intended to address issues including citizenship, travel documents, entry requirements and immigration border processing procedures. The aim of the project is to establish immigration policy and legislation for the United Nations Transitional Authority in East Timor (UNTAET) which it is hoped will form the basis of an East Timorese Immigration Service at the inception of an elected East Timorese Government.

By aiding countries to strengthen their border controls and providing technical assistance on document examination issues, the options open to smugglers are reduced.