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JOINT STANDING COMMITTEE ON MIGRATION

Reference: Review of Migration Regulation 4.31B

FRIDAY, 7 FEBRUARY 2003

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JOINT COMMITTEE ON MIGRATION

Friday, 7 February 2003

Members: Ms Gambaro *(Chair)*, Mr Ripoll *(Deputy Chair)*, Senators Bartlett, Eggleston, Kirk and Tchen and Mr Laurie Ferguson, Mrs Gash Mrs Irwin and Mr Randall

Senators and members in attendance: Senators Eggleston, Kirk and Tchen, and Mr Laurie Ferguson and Ms Gambaro

Terms of reference for the inquiry:

On 10 December 2002 the Minister for Immigration and Multicultural and Indigenous Affairs, the Hon Philip Ruddock MP, asked the Committee to conduct a review of Migration Regulation 4.31B.

WITNESSES

CAMPBELL, Ms Julie, Acting Director, Migration Agents Policy and Liaison Section, Business Branch, Migration and Temporary Entry Division, Department of Immigration and Multicultural and Indigenous Affairs..1

HUGHES, Mr Peter, First Assistant Secretary, Refugee and Humanitarian Division, Department of Immigration and Multicultural and Indigenous Affairs 1

ILLINGWORTH, Mr Robert, Assistant Secretary, Onshore Protection Branch, Refugee and Humanitarian Division, Department of Immigration and Multicultural and Indigenous Affairs 1

Committee met at 12.01 p.m.

CAMPBELL, Ms Julie, Acting Director, Migration Agents Policy and Liaison Section, Business Branch, Migration and Temporary Entry Division, Department of Immigration and Multicultural and Indigenous Affairs

HUGHES, Mr Peter, First Assistant Secretary, Refugee and Humanitarian Division, Department of Immigration and Multicultural and Indigenous Affairs

ILLINGWORTH, Mr Robert, Assistant Secretary, Onshore Protection Branch, Refugee and Humanitarian Division, Department of Immigration and Multicultural and Indigenous Affairs

CHAIR—I would like to open this public hearing of the Joint Standing Committee on Migration's review of Migration Regulation 4.31B. Regulation 4.31B provides that unsuccessful applicants to the Refugee Review Tribunal must pay the $1,000 fee within seven days of receiving notice of the RRT decision. Where RRT applications have been combined, however, only one fee per family is imposed, irrespective of the number of applicants. There are two exceptions where the fee is to be refunded or waived: regulation 4.31C provides that the fee must be refunded or waived if the applicant seeks judicial review, the case is subsequently remitted to the RRT and the tribunal finds in the applicant's favour; or, where the minister substitutes a favourable decision for that of the RRT by using his powers under section 417 of the Migration Act.

Following its review of this regulation in May 1999 and June 2001, and in accordance with the recommendation in its 2001 report, the minister has asked the committee to review Migration Regulation 4.31B and to report to parliament by 30 April 2003. If you would like any further details about the inquiry, please feel free to ask any of the committee staff who are here this morning.

I now turn to the proceedings at hand. Because we have limited time for the hearing and considering it is a non-sitting day, I ask committee members and witnesses to keep their comments as brief as possible.

Although the committee does not require witnesses to give evidence under oath, you should understand that the hearings are legal proceedings of the parliament and warrant the same respect as the proceedings of the parliament itself. Giving false or misleading evidence is a serious matter and it may be regarded as a contempt of parliament. The committee prefers that evidence be taken in public, but if you wish to give confidential evidence to the committee you may request that hearings be held in camera and the committee will consider your request. Are there any corrections or amendments that you would like to make to your submission?

Mr Hughes—I do not think that we have any at this stage.

CHAIR—Before we ask questions, is it your wish to start with an opening statement?

Mr Hughes—Yes, but I will try to be as brief as possible, given the limitations on time. As you have already observed, this scheme was reviewed twice by the committee's predecessor in 1999 and 2001. On both occasions the committee recommended the extension of the scheme

and the regulation, but with further review before a sunset clause had effect. Obviously, that sunset clause has effect in the current case, on 30 June this year.

From our perspective in implementing it, we consider that the regulation continues to effectively serve the purpose it was designed for. We have set out the background to the regulation and its operation in our submission and we have also set out an analysis which we believe makes the case for its continuation. I would like to take a moment to outline a few of the basic points. Really, a regulation like this stems from the fact that governments have to achieve a delicate balance between, on the one hand, an open, fair and accessible refugee determination system for people who need protection. On the other hand, there have to be disincentives of some kind in the system for people who might want to abuse a very open protection visa system. A disincentive does not have to be major or large, but at least something that serves as a signal that abuse of the system is not something that governments want to see happen.

As you have observed, the $1,000 RRT post-decision fee applies only to people who are not found to be in need of protection by the RRT. It was just one element of a package of measures introduced in July 1997, designed to reduce abuse of the protection visa system. It is the only one that applies at the review stage. As you have said, the fee applies only at review stage and not to primary assessment. It is not paid by anyone who is found to be a refugee or granted a visa through the minister's intervention powers.

We think that the fee and its operation provide a disincentive to applicants. We think that the general package provides disincentives to applicants who do not need protection. We think that the general package introduced in 1997 continues to work in that way. As to how we reached this conclusion in relation to the fee, obviously it is difficult always to pick out one element of how a package of things works, so on previous occasions we have provided an analysis to the committee that we thought made the case for the effectiveness of the fee system, and we have tried to do that again in the submission. It is based on looking in detail at what happens to people from high and low refugee producing countries. In other words, if we take the definition that we have used of a low refugee producing country, we mean people who have applied for protection and fewer than two per cent of people from that country have ever been found to be in need of protection.

Clearly, you might expect that people from high refugee producing countries are more likely to have an expectation that there is some human rights or refugee issue to be dealt with than people from low refugee producing countries that have a record of respect for human rights and do not have a record of countries granting protection to their citizens. We have looked at how those people, particularly people from low refugee producing countries, have progressed through the system in terms of appeals to the Refugee Review Tribunal and we have looked at those as a kind of surrogate for groups of people who are less likely to have any need of protection.

We think that the data that we have set out in the submission in several tables shows us that the fee has been effective in limiting RRT applications from people with no need of protection. A combination of indicators in relation to people from low refugee producing countries suggests that over a six-year period there has been a stabilisation in the rate at which people from low refugee producing countries appeal to the RRT, a reduction in numbers, and that now, compared to six years ago before the fee, a lower proportion of the RRT's work is taken up by people from low refugee producing countries. We think this combination of indicators suggests that the

regulation and the scheme continue to be effective. However, importantly there is no apparent effect whatsoever on people from high refugee countries applying to the RRT. We do not think that there has been any negative effect on people from countries that you might expect to have a more well founded refugee claim.

As I have mentioned, it is the only part of the 1997 package that targets review. We think that it continues to be effective and certainly we would have some concern if it was removed because it is the only disincentive to abuse at that level. It would clearly send some messages about the operation of the asylum system. I would like to leave it at that.

CHAIR—Before I start on questions I must apologise as I have to leave in about five minutes. I will be handing over to Senator Eggleston. The submission notes changes to your approach, particularly in relation to including all applicants, including whether they are in detention or not, and not just statistics. How are temporary protection visa applications accounted for in the data? Could you outline that process a little more fully?

Mr Illingworth—Essentially we have included all applicants who have received a decision. When we presented the analysis for the committee's consideration at the last sunset clause consideration, some queries were raised as to why we had, at that stage, stripped out that data and we looked solely at the community caseload. At the committee's request we then presented the analysis with those numbers included which is what we have done at this stage. Essentially, a primary lodgment or primary rejection, approval or review lodgment and the outcomes for all the TPV applicants over the last four years are incorporated in these figures.

CHAIR—Thank you for that. In terms of the collection of that fee, is the process fairly streamlined or are there any encumbrances on the collection of that fee?

Mr Illingworth—It is a reasonably straightforward process from the department's perspective. We have an agency agreement with the Refugee Review Tribunal because it is a separate financial entity. Under that agreement, we conduct the recovery process for them as one of the range of corporate services we provide to them. Essentially, the individuals are sent a letter which indicates that they are liable for the fee and which provides information on how they can pay the fee. From that point on, it is really the normal departmental approach to management of creditors.

CHAIR—You mention in your submission that they have seven days in which to pay the fee. Is that correct or are they sent a letter seven days after the decision?

Mr Illingworth—There is a seven-day period within which they are asked to pay the fee. Beyond that point if no fee is paid they go into our recovery process. However, that process does not have an equivalent in the commercial debt recovery process. It is a written correspondence based recovery process. People who face paying the fee quite often choose to depart instead.

CHAIR—So to your knowledge there have been no problems with the collection of the fee?

Mr Illingworth—There is a problem inasmuch as individuals tend to become highly mobile if they receive a negative review tribunal decision. That tends to crystallise one's choices. Some

will decide to go; some will go underground and perhaps think about dealing with the fee issue or whatever if and when they are located.

CHAIR—That can be a bit tricky at times.

Mr Illingworth—So whether the department has an address for these people post review if they are not successful can be a problem.

CHAIR—I would expect that that would present some challenges. I am sorry, but I will hand over to Senator Eggleston now.

ACTING CHAIR (**Senator Eggleston**)—That leaves three members of the committee. I suppose there are two ways to deal with this section of the inquiry. We can ask committee members whether they have any specific questions on various parts of this document which has been provided to us, or the other way to do it might be to go through it under each heading and see whether issues arise under each heading. Which would you prefer to do?

Senator KIRK—I have a few specific questions and I am happy to discuss them.

ACTING CHAIR—In that case we will start with Senator Kirk.

Senator KIRK—I have a few further questions in relation to the recovery of the fee. You talked about those persons who receive an adverse decision against them and how it is often hard to locate them, which I can understand. However, what about those who go back into detention? Obviously they are not difficult to locate.

Mr Illingworth—That is right.

Senator KIRK—I am interested in how far you go to collect this fee. You said that the process is not similar to commercial debt recovery processes. How is it different? What is the process? How far do you go? Would you go as far as issuing bankruptcy proceedings?

Mr Illingworth—No. When someone is in detention having been through a process like this, a primary objective is to resolve their status in Australia and, if they have no status, to remove them as quickly as possible. I am not aware of the department engaging in what could be very prolonged bankruptcy processes.

Senator KIRK—So there are no examples of that occurring?

Mr Illingworth—Not that I am aware of. However, if someone is in that position, their debts to the Commonwealth would predominantly be detention-related debts. To that extent, the $1,000 fee would be a minor issue. A person detained for weeks or months in detention may have a detention bill of many thousands of dollars which they owe the Commonwealth.

Senator KIRK—So there is a charge for being held in detention?

Mr Illingworth—There is a recovery of costs of people who are held in detention. On a similar ground, if someone is successful in obtaining a visa, those charges are generally not

applied. However, where the person is not successful, a debt to the Commonwealth is created. The reality is that many of these people do not have a huge amount of money and/or do not wish to apply what money they have to paying off Commonwealth debts if they are looking at going back overseas either voluntarily or involuntarily. Their preference could well be to keep that money at hand to use when they go home. There are powers in the Migration Act which enable the Commonwealth to appropriate assets of an individual to hold against Commonwealth debts but, from my understanding, that is largely applied in relation to the detention costs issue and generally as far as I am aware it is not applied. People do not have the money. They go home carrying a notional debt to the Commonwealth which they may or may not choose to pay depending on whether they feel like repatriating that money.

Senator KIRK—And that is not generally followed up by the Commonwealth once they have left the country?

Mr Illingworth—Once they have left the country we would have no mechanism to pursue that. We certainly would not be trying to prolong their stay, particularly in detention, in order to recover debts. That would not be an impediment to removal.

Senator KIRK—What is the recovery rate like in relation to these people? Am I right that there are no statistics here?

Mr Illingworth—At page 28 of the submission we set out some data which talks about net revenue received. Table 5.8.1T sets out the number of people who notionally would have been liable for the fee since its introduction—some 24,000 people—and table 5.8.2T talks about the revenue received so far. Given that 24½ thousand people multiplied by 1,000 would be the total revenue potential, less the couple of million that we have had paid to us, the difference would be those people in the community who have not paid us yet.

Senator KIRK—What is the approximate differential? My maths is not quick.

Mr Illingworth—It is 3,000-odd people, if I am getting my zeros right. I am dividing the dollars by 1,000 to get the number of people who equate. About 3,000 people out of a total pool of about 24½ thousand have paid. Over time, the revenue rates have been going up and down, with a general upward trend. Last year was down significantly on the previous year, but that is largely due to the throughput of the tribunal. You will see that the firm number for 2001-02 is 2,192, so it has dropped a bit from the previous year, and our revenue intake has dropped a bit.

Senator TCHEN—I want to concentrate on fee recovery. Has the Commonwealth considered requiring the fee to be paid as a deposit paid in advance? What is the barrier to that?

Mr Illingworth—That is an issue that was actively considered at the time the fee was developed as a proposal and it certainly is an option which would increase recovery rates—essentially, a no pay, no go approach.

Senator TCHEN—I am not so concerned about that but go on, please.

Mr Illingworth—One of the concerns that would flow from that is whether the imposition of the $1,000 fee would in fact prevent individuals from accessing the review. The way it is structured at the moment, a person can access the review if they believe they are a refugee,

without having to find the money to put down as a deposit as a precursor to accessing it. If we were to move to an up-front fee approach, there could be a risk that people—

Senator TCHEN—No, I am talking about a refundable deposit.

Mr Illingworth—That is right, but there is still the issue of finding the money. The person would not be able to get the review until they had the bank cheque or whatever that showed they had the money, whereas at least this way the risk of the system is actually borne by a recovery process rather than by excluding people or preventing people from quickly obtaining a review simply on the basis of their inability to raise funds. There could be some problems too. They would have to raise the money within the review window, so they would have 28 days or, if they are in detention, seven days to obtain the money, even if they could access it. That may not be feasible in all cases, whereas there is more flexibility with a fee as a debt to the Commonwealth because we can essentially sit down with the individual and reach an agreed arrangement to pay. That is of particular value if, for example, the person goes overseas and wants to come back again. The notional debt to the Commonwealth could be a barrier to obtaining the visa, but we can reach an agreement based on the individual's circumstances—they can pay off that debt, get the visa and pay back $20 a week or whatever.

Senator TCHEN—At the moment the recovery process is really symbolic, isn't it? The only stick you might hold over the person is putting on him or her on the migration alert list. There is no other recourse. You cannot hold them until they pay.

Mr Illingworth—No, we are certainly not a debtors prison.

Mr Hughes—And that starts to become not cost-effective. The construction comes back to the balancing act, which I mentioned at the beginning: allowing access and making sure that people who have genuine need of protection have no barrier to getting their case considered, but having what might be called a light disincentive at the end of the process for people who are using it for other purposes.

Senator TCHEN—Mr Illingworth has already described how the department is prepared to come to an agreement with the unsuccessful applicant, so that is very good. The other issue which I would like to raise before we go into details is that this legislation was reviewed on two previous occasions, in 1999 and 2001. I note that in 2001 the committee recommended that DIMA—it is now DIMIA; I hope that does not remove your responsibility—systematically examine the full range of existing migration processing and review arrangements with a view to further streamlining them. You did not refer to that in your submission. Has that been carried out or is it in the process of being carried out?

Mr Illingworth—Since the last review there has been quite a bit of activity in reviewing our processes, with particular emphasis on streamlining and expediting decision making. The unauthorised arrivals surge in particular was a great focus for us. I will approach this in two ways. One is with the unauthorised arrivals, which constitute a large percentage of the processing that is reflected in the numbers in the submission. We went through a process of front-loading a lot of the resource- and time-intensive checks—quite often checks that involve the applicant doing something like obtaining penal clearances from offshore, or other agencies like ASIO doing things like security checking—so that individuals were pushed into a number of different streams at the same time on arrival in detention, even before they had lodged an

application for protection, so that we did not have serial processing of requirements for the grant of a visa. Everything was commenced at once.

We strengthened quite substantially our system's reporting and management capability for those caseloads in particular so that we could have them almost micromanaged down to the individual case level. That is reflected in a substantial change in our timeliness of throughput with those caseloads but, while we were doing that, in essence we were looking at how those sorts of initiatives could be fed back into the primary processes. We also improved the methodologies that we used to manage our fore-planning of work forces so that we were more flexible in the face of huge unexpected shifts in workloads. The result can be seen—this is taking it the other way—in our general timeliness figures for processing across the board, which are now very good. Even with community application rates, well over 70 per cent of community applicants are getting a decision in 90 days. That is a very good outcome historically. We have a lot of processes in place to speed things up. We are still focusing our attention—I do not think there is any one simple, easy solution—on two issues. One is natural justice. We try to have a system which accords to the individual a reasonable, fair opportunity to respond to adverse information.

Everybody would expect the system to have that as a fundamental objective. However, that takes time and quite often there are statutory time limits. If you offer somebody an opportunity to comment on information, it is rather like a chess game—your clock might be stopped and their clock is running, but the clock on the wall is still counting the hours and the person might still be waiting for a decision even though they are busily researching a response to information. Similarly, in regard to writing to ask people to attend an interview, commonsense and fairness would dictate that you would give somebody an opportunity to respond and set a date far enough in advance so it is reasonable to expect them to attend. Those things push out time limits or at least limit your capacity to compress time frames for decision making.

The other issue relates to dealing with other agencies overseas, particularly in relation to penal checking and sometimes in relation to liaison with other governments about the history of people. Those are issues over which we can have only a marginal influence in respect of the timeliness of response. Other governments and agencies have their own priorities. Sometimes, notwithstanding that they assure us vigorously of how importantly they take our requests, the practice does not live up to the rhetoric. Those are the areas we are still focusing on. Just about all the other things that are within our control we have whittled down to the point where there is very little scope for us to do much more.

Senator TCHEN—In 2001, after considering evidence on the behaviour of some migration agents, the committee recommended that the activities of migration agents should be brought under closer and continuing scrutiny by the department and by the Migration Agents Registration Authority. When you talk in your submission about an indication of whether this fee or regulation has worked, you refer to people from the low refugee producing nationalities who quite often do not front invitations to meetings with the RRT. You say that that is not likely to be due to a lack of understanding as most of them employed migration agents. That brings us back to the integrity and skill of the migration agent they employ. Has the department made any progress on the scrutiny of migration agents since 2001?

Ms Campbell—In September 2002, Mr Hardgrave launched a report on the most recent industry review in respect of which there was a range of recommendations. One of the more

important recommendations was to focus on the activity of agents in lodging vexatious applications and drafting is currently being arranged to introduce a bill this year to implement new sanctions to tighten and strengthen MARA's ability as the industry regulator to deal effectively with agents who are seen to be involved in this vexatious activity. New sanctions are proposed for parliament's consideration during 2003. There is a range of other sanctions as well. Does that answer the question?

Senator TCHEN—Yes. I have an applicant through my electoral office who has been rejected through the RRT process. He produced a large folio of his case history at my office which consisted mainly of photocopies of photocopies of other things which were duplicated many times. This person has very little English skills. When he came to see us he was still under the impression that he was well represented by his migration agent. As far as we can see, he was invited to an interview by the department and the RRT on at least three occasions and on no occasion was he aware that he needed to attend.

Ms Campbell—So his migration agent had failed to represent him properly.

Senator TCHEN—Yes, that is right. There are still migration agents like this running around.

Ms Campbell—The code of conduct which all migration agents are obliged to follow contains clauses which can be the foundation of a complaint, investigation and disciplinary action by MARA. I encourage the person you referred to to lodge a complaint with MARA about what has happened.

Senator TCHEN—As long as I can extract the individual's name from him, I will pass it to you.

Ms Campbell—Indeed. That would be terrific. Really MARA cannot take action against someone unless they receive a complaint and some details on those complaints. The code has clauses about people charging a reasonable fee, keeping their clients up to date regularly, not engaging in vexatious activity in the sense that they are not meant to encourage clients to lodge applications that are unlikely to get up and if the agent gives that advice and the person says, 'No, I still want to put my application in,' they are meant to have a signed acknowledgment of that. There might be many grounds upon which this person could base a complaint.

Senator TCHEN—Thank you. That completes my preliminary questions.

ACTING CHAIR—Does the committee wish to go through the document or to deal with the key issues of abuse, the effect of the fee on abuse and bona fide applicants, or are we satisfied that we have covered the issues we wished to cover? Do you have any further questions, Senator Tchen?

Senator TCHEN—In respect of the delineation between high refugee producing nationalities and low refugee producing nationalities, that is only a statistical analysis; it is not a way of categorising applications.

Mr Illingworth—That is right. It is purely a statistical methodology in this respect based on a broad assumption that you are more likely to find vexatious applications or misuse of the

system amongst applications for low refugee producing countries than high refugee producing countries but we do not use that for any purposes of case determination. Each case is assessed on its merits. Even with the low refugee producing countries, there is still a percentage who are found to be refugees. We have to look at each case individually.

Senator TCHEN—In terms of the imposition of the fee and international comparisons, is such a fee in accord with international practice or international law?

Mr Hughes—We are perfectly happy that it is not in any way in contravention of international law. I do not believe that it is widely used elsewhere. In fact, I do not know of any specific examples. However, some other countries do charge for the review application up front. In other words, I am not aware of any examples of the post-decision fee that we use being used for those who are not found to be refugees, but some countries charge a significant amount to everyone who applies for review.

Mr Illingworth—Without waiver.

Mr Hughes—Up-front and without waiver.

Senator TCHEN—What would you say if the regulation was not renewed? What would the impact be?

Mr Hughes—There are two kinds of impact. It would be a very interesting signal to the community of people who want to remain in Australia, and to migration agents to whom you have referred, of the government perhaps taking a more lenient view in this area. If we look at the statistical analysis over the last six years and see how, as far as we aware, it has helped to put some limit on abusive claims, we would expect to see an increase in the number of claims to the RRT from low refugee producing countries and ones where we expect that there is unlikely to be a successful outcome. Obviously the modest revenue that we now gain would be lost.

Senator TCHEN—Are you prepared to make an assessment of the possible magnitude of increase in the applications?

Mr Hughes—The numbers from low refugee producing countries were certainly increasing at quite a high rate at the time that this was being introduced.

Senator TCHEN—And they stopped and then they slowed down?

Mr Hughes—And then they slowed down very quickly after the introduction of the fee. If people in the community perceive that there is a signal that you can use this process without any problems at all, even if you have no grounds for protection, it is a good incentive to people to say, 'This is something we can try if we want to stay longer; there is nothing to be lost if we do it.' We could find ourselves back where we were, where we were getting a very significant annual percentage increase of people from countries where there seemed to be no claims except in the most limited circumstances.

Mr Illingworth—Perhaps I can refer you to paragraph 5.11.4 of our submission. Going back to the year preceding the introduction of the package of measures, there was a substantial rate of increase in the flow-on rate by low refugee producing countries.

Senator TCHEN—Yes, I see that.

Mr Illingworth—We do not have a laboratory where we can see what would have happened if we had not introduced the fee, but it would be reasonable to expect a continuation of that rapid closing of the take-up rate between high refugee producing countries and low refugee producing countries. If that were the case, for example, and if there were nothing that discouraged a person from a low refugee producing country—a person who does not have grounds for protection—from seeking a review, they could apply for a review at the same rate as the high refugee producing countries: about a 94 per cent take-up rate. We have attempted to quantify the potential cost or saving represented by that at 5.11.4. About $800,000 would be the quantum of difference in terms of cost to the Refugee Review Tribunal of processing an increase. If you take the fee away, we will lose the revenue. Taking away the suppressing or the limiting element could result in a rise, as Mr Hughes said, in the number of low refugee producing country people seeking review, and the cost of processing those would be quite significant as well. It is a double hit.

Senator TCHEN—What about alternatives? Obviously this is the department's chosen approach. Have you come across any proposal or has a suggestion been made to you about alternative regimes? If so, do you have any comment on them?

Mr Illingworth—Alternatives were canvassed in previous submissions to the review. Most of them seemed to either create an administrative or decision making structure that was far more complex, unworkable and subjective or start from an assumption that the fee was predominantly a punitive measure rather than a cost recovery measure which is just sending a signal to people who make their own judgments about what they want to do and modify their actions accordingly. My general comment would be that having seen the earlier submissions where alternative processes like the tribunal member to decide whether it is a vexatious application create a whole raft of problems. Essentially, the tribunal member has to do another piece of work; they are already making a decision about protection claims, now they have to make some other judgment—creating a possible line of review or litigation before the courts. It is ultimately a subjective judgment about motivation. Inherent in it is some idea that the fee should be applied only as a punishment rather than as a fraud disincentive. That is an example of the sorts of proposals that I have seen in the past and the administrative decision making concerns that they would raise.

Senator TCHEN—You have not had any alternative proposals put to you recently?

Mr Illingworth—Not that I am aware of.

Senator TCHEN—You have not either, Mr Hughes?

Mr Hughes—Not that I am aware of either.

Mr LAURIE FERGUSON—I fully accept that it has utility but has any statistical work been done whether there is any relationship between then low refugee successful countries and a subsequent crackdown, because of the risk factor, on admission to Australia? There could be the factor that, basically, Tongans were claiming a patriarchal society, women were suppressed, so we had all these refugee claims based on that. That might have led to a departmental reaction

that maybe you will be a bit harder on Tongan admissions next year. Have you looked at that kind of factor?

Mr Illingworth—No, we have not. To an extent, the figures that look at take-up rates by nationality would tend to insulate some of those impacts, but if you assume that there is a tightening of bona fides checking offshore within a nationality group, then through time, yes, that arguably would flow on to a lower take-up rate. Generally speaking, the percentage of people who visit Australia on visas who end up in the protection visa process is pretty low. A raft of other factors make it very difficult to make that sort of comparison. While, obviously, the extent of misuse within the PV process is of concern and when we compare this many thousand applicants to the very many millions of visitors, it is very hard to find out the specific issues that affect whether one, 10 or 100 people from a particular nationality enter the PV process.

Mr LAURIE FERGUSON—We can put to one side a significant number of those countries per se—for example, the US, Japan and Germany. We can virtually put a big part of the intake to one side. This is a political question: can I be reminded of the history of the majority reports? Are you aware of whether they broke on party lines in the past or previous to—

Mr Illingworth—The last one had one dissenting report—

Mr LAURIE FERGUSON—That is what I thought.

Mr Illingworth—from Senator Bartlett. As for the one prior to that, we can find out and let you know but I think it was six to four.

Mr LAURIE FERGUSON—So that one—six to four—one might have been on party lines?

Mr Illingworth—I am not sure whether the first one was.

Mr Hughes—That is what it looks like to me.

Mr Illingworth—I think the only dissenting report was from the Australian Democrats.

ACTING CHAIR—Can the secretariat assist?

Secretary—The earlier report effectively had a unique structure. It had a committee report, dissenting reports and a personal explanation. Crudely speaking, it was on government and non-government lines.

Mr Hughes—That was in 1999.

ACTING CHAIR—Are there any other questions or comments? There being none, I thank the witnesses for their appearance here today. If there are any matters on which we might need additional information, the secretary of the committee will write to you. You will be sent a copy of the transcript of your evidence today so that you can make editorial changes if you so desire.

There being no objection, the submission is accepted as evidence to the review of Migration Regulation 4.31B and the committee authorises its publication.

Resolved (on motion by **Senator Tchen**, seconded by **Senator Kirk**):

That this committee authorises publication of the evidence given to it at the public hearing this day.

ACTING CHAIR—I thank all concerned for their appearance here today and the secretariat for their work in preparing the background documentation.

Committee adjourned at 12.49 p.m.