



393 Swanston St
Melbourne
Victoria 3000 Australia

TELEPHONE
ISD (613) 9663 5266
STD (03) 9663 5266

FACSIMILE
(03) 9663 4051
(03) 9663 8220

WEB
www.actu.asn.au

PRESIDENT
Sharan Burrow
SECRETARY
Greg Combet

Ref: am:dd

1 May 2003

Secretary
Joint Standing Committee on Migration
Parliament House
CANBERRA ACT 2600

Dear Sir/Madam,

**Re: Review of Australia's Labour Migration and
Temporary Entry Programme**

Please find attached the Australian Council of Trade Unions' submission to this Review.

Yours sincerely,

A handwritten signature in black ink, appearing to read "A. Burrow", written over a white background.

SHARAN BURROW
President

attch.



**Review of Australia's Migration and
Temporary Entry Programme for
Skilled Labour**

**Parliament of Australia: Joint
Standing Committee on Migration**

April 2003

D No. 16/2003

INTRODUCTION

1. The ACTU recognises that as a result of the post war migration Australia enjoys one of the most culturally diverse populations in the world and that migrants contribute a wealth of knowledge and experience to Australian society.
2. Policies relating to population and immigration are of fundamental importance to the development and growth of Australian society. The ACTU, from the beginning of Australia's immigration programme has been actively involved in the formal governmental consultative structures. This involvement ceased with the current Howard Government as the ACTU was systematically excluded by the Government.
3. The ACTU believes that in determining immigration policies consideration should be given to the following factors:
 - i) In general, while immigration may assist in meeting some immediate skill needs, immigration is not an effective or desirable instrument in overcoming long-term labour market deficiencies;
 - ii) Immigration programmes with specific economic objectives need to be integrated in national labour market planning including education and training, regional and industry development;
 - iii) Settlement policies for all new arrivals, whether under temporary or permanent programmes, including those coming under working holiday programme or more generally, skills shortages programme, need to ensure that workers and their families are not exploited or experience discrimination or racism, and
 - iv) That policies relating to the selection process should not discriminate on the basis of race, religion, national origin, sexual preference or language.

REVIEW

4. The ACTU would like to comment on three aspects of the terms of reference:
 - International competition for skilled labour;
 - The degree to which skilled migrants are being attracted to Australia;
 - Settlement patterns.
5. Globalisation and Migration: International Co-operation

- 5.1. An understanding of the first term of reference, the international competition for skilled labour; is an important first step in this inquiry. The International Labour Organisation (ILO) estimates that “the current global total number of migrant workers and family members to be about 120 million. The International Organisation for Migration (IOM) and the UN estimate the total global population residing temporarily or permanently outside their country of origin at around 180 million people” (*Perspective on Labour Migrant: Globalisation, Labour and Migrant: Protection is Paramount*, (3E) ILO 2002, p2).
- 5.2. The ILO has further noted that, the international migration of skilled persons has assumed increased importance in recent years reflecting the impact of globalisation, revival of growth in the world economy and the explosive growth in information and communications technology. (*International Migration Papers 44: Migration of Highly Skilled Persons from Developing Countries: Impact and Policy Responses*, ILO 2001, p.v)
- 5.3. Three issues have limited any significant exploration of the issue and implications of globalisation and immigration in Australia; first the dominating and necessary debate on asylum seekers which has significantly impacted on Australia’s national and international standing in the world community which has meant little attention has been given to the broader issues of the movement of people on an increasing internationalisation of the world community. Secondly, the discussion on movement of capital, goods and services in the trade debate has excluded the issue of people movement. Finally, unlike the previous two decades the Federal Government has significantly reduced its funding to independent academic research.
- 5.4. The international competition for skilled labour is but one dimension of this dimension of globalisation.
- 5.5. The ACTU believes that there are a number of implications of this movement which the Committee might consider exploring further:
 - (a) In terms of skilled migration what are the implications of Mode IV (“the movement of natural persons”) aspects of the General Agreement on Trade in Services currently under discussion within the framework of the WTO?
 - (b) Given the deregulated market, the informal economy, what is the degree to which other migration categories, for example, the Working Holiday Maker Scheme are beginning to fill gaps in skilled labour requirements?
 - (c) With the systematic reduction of resources for equal opportunity commissions at both state and federal government levels, the refusal of the Australian Government to develop in consultation with industrial community implementing strategies arising out of ratification of ILO Convention 111 (Discrimination), to what degree are labour market entrants open to increased exploitation and discrimination?

- 5.6. The *US Business Week* in a recent major report (3/2/03) suggested that we are now being confronted with “globalisation’s next wave” in the movement of people. The first wave, it is suggested, started two decades ago “ with the exodus of jobs making shoes, cheap electronics, and toys to developing countries (**NB:** “Shenzhen, China, manufacturing 70% of the world’s toys”. *Far Eastern Economic Review*, 6/2/03). After that simple service work, like processing credit card receipts, and mind numbing digital task like writing software code, began fleeing high cost countries.”

Number of US Jobs moving offshore (a)

	2005	2010	2015
Life Sciences	3,700	14,000	37,000
Legal	14,000	35,000	75,000
Art, Design	6,000	14,000	30,000
Management	37,000	118,000	288,000
Business Operations	61,000	162,000	348,000
Computer	109,000	277,000	473,000
Architecture	32,000	83,000	184,000
Sales	29,000	97,000	227,000
Office Support	295,000	791,000	1,700,000
TOTAL	588,000		3,300,000

(a) to low-wage countries such as China, Mexico and the Philippines

Data: Forrester Research Inc.

- 5.7. The ACTU believes that while Australia effectively competes for skilled workers the dynamic forces of globalisation are contributing new challenges to Australia’s migration programme, and perhaps the time has come for the Committee itself, as a part of this Inquiry, should initiate a series of studies and inclusive round tables, on the issue. Such an initiative would make a significant contribution to Australia’s understanding of the issue of skilled migration in the context of globalisation.
- 5.8. A first step could be to request a number of competent authorities, apart from the Department of Immigration and Multicultural Affairs, to produce a series of working papers. For example, the International Labour Organisation has in its migration research series, a recent document focusing on one aspect of globalisation, “Globalisation, Labour and Migration: Protection is Paramount”, which the Committee might find of interest.
6. Attracted to Australia
- 6.1. Australia’s skilled migration programme is but one of a number of competing programmes for labour. The second term of reference focusing on ‘attraction’ has implications, which the ACTU believes need further exploration by the Committee.

- 6.2. Three related issues of interest to the ACTU:
- (i) the degree to which categories of migration, other than the specifically targeted skilled migration category are being used by the Government to fill skill shortages?
 - (ii) whether or not the skilled migration is being used as an alternative to skilling Australia's own workers?
 - (iii) the degree to which the skilled migration programme is perceived and operationalised as an integral dimension of Australia's aid and development objectives?
- 6.3. The ACTU has neither the capacity nor the resources to analyse the issue of the degree to which other categories of the migration programme are being used to fill skill shortages.
- 6.4. Historically all parties which have contributed to the past effectiveness of Australia's labour immigration programme – governments, employers, unions and community have been committed to ensuring that the output of the training effort in Australia, has been directly related to the input of labour from overseas. As this submission is being written the ACTU has been excluded from the Australian National Training Authority.
- 6.5. Indications suggest that this relationship between training output and input from skilled migration is less than effective:
- a) The submission from the Migration Institute of Australia, only states what has been widely recognised for a number of years, under both Labor and Conservative governments, notably that the 'consultative' process related to the migration programme may not be "appropriate" or "effective" (MIA Submission, p.9).
 - b) The NSW Board of Vocation Education and Training has noted that "the co-ordination of the Australian system of migration and the administration of labour in Australia could be improved. This issue of co-ordination arises due to constitutional division of responsibility between the Commonwealth, which is responsible for regulating population flows into and out of Australia, and the states which are responsible for the administration of the vocational education system. The states may also be responsible for certain industrial relations issues, such as wages, other employment conditions and occupational health and safety. This constitutional division of responsibility gives rise to a number of problems. For example, the Commonwealth imposes certain conditions visas, but may not be responsible for ensuring compliance with these conditions. For example, employer sponsors or overseas labour are required to ensure that the contract with their overseas workers complies with relevant community or legislative standard, with respect to wages, condition and occupational health and safety. However, the Commonwealth may not be responsible for ensuring such

compliance. DIMA may not even inform the relevant state authorities regarding the whereabouts and conditions of entry of certain migrants.” (*Impact of skill migration on skill formation and the labour market*, NSW Board of Vocation Education and Training, July 2001, p.53)

- c) The NSW Board further concluded that “concerns remain that WHMs are operating as a core labour supply in certain industries ... with adverse effects on employment and training opportunities.” (ibid. p.54)
 - d) There is a global shortage of workers. In Australia it is reported that the Federal Government’s review of nursing estimated shortages over the next five years to be in the order of 35,000. At the same time Australia young people have been turned away from training at the rate of nearly 2,000 a year since 1997, as a result of the systematic de-funding by the Federal Government of training courses. In Victoria it is reported that in 2002 some “1300 Victorian students had missed out on a nursing career this year, and the situation would worsen next year” *The Age*, 8/9/02; see further press reports – Advertiser, 26/7/02; S.A. Sunday Mail, 26/5/02; SMH, 21/10/02).
 - e) Illegal skilled and semi-skilled workers continue to be identified in a number of industrial sectors such as building with few meaningful strategies or sanctions in place to counter this movement of workers.
- 6.6. The Federal Government’s Foreign and Trade Policy White Paper: Advancing the National Interest’ notes that “good governance – which includes the role of law, respect for human rights and development of sustainable policies and institutions – is a basic condition for security and prosperity in all countries.” (p.xviii)
- 6.7. The issue of the skilled recruitment of nurses in particular, raises some further issues which are related to this fundamental objective (6.6).
- 6.8. Early in 2002, the Human Services Minister in South Australia, Dean Brown, said that he was “concerned about developed nations, including Australia, taking nursing resources from developing countries such as South Africa believing that it would impact severely on their future health care”. (Advertiser, 9/1/02).
- 6.9. The ACTU affirms the conclusion of the White Paper that the report for human rights and “development of sustainable policies and institutions is a basic condition for security and prosperity for all countries.” A question which the ACTU invites the Committee to explore is the issue and degree to which attracting skilled migrants is a factor in Australia’s aid and development programme? Is the recruitment of nurses from South Africa, Philippines or PNG reducing the sustainability of health systems in those countries which then require major aid assistance? Is there a way to balance the individual nurse or engineer; right to move with a policy which encourages either state governments or the private sector from aggressively

recruiting in areas or sectors which would affect the sustainability of some sectors?

- 6.10. In short, has the time come to examine and analyse the moral and ethical dimension of Australia's skill migration programme, both in terms of a government's and a community's responsibility to its young people, as well as to developing countries.
- 6.11. The International Council of Nurses with regard to the recruitment of nurses, effectively sums up the challenge:

"When considering international migration, there is a delicate balance to be maintained between the human and labour rights of the individual and a collective concern for the health of the 'exporting' nation's population. There is consensus in the literature that "trade globalisation and the growing lack of skilled labour in rich countries are likely to accelerate the brain drain from the South for some time to come. The success of interventions to support the positive impact of international migration while minimising its negative consequences depends on the level of socio-economic and technological development in each country and a long-term strategy commitment by professional and political leaders. ICN recognises the right of individual nurses to migrate, while acknowledging the possible adverse effect that international migration may have on health care quality in areas experiencing critical nursing shortages."

7. Settlement

- 7.1. The conclusion of the NSW Board of Vocational Education and Training on the dilemmas of responsibility between state and Commonwealth together with the regular reporting of the exploitation of workers brought in from overseas suggests that there are weaknesses in the existing regime of labour market migration.
 - *Was this a man a slave: Apartheid labour check, The Age, 8/9/02*
 - *Short term IT visas are being exploited, The Australian, 12/11/02*
 - *Korean Worker Bashed for Questioning Wages, Workers Online, 9/3/01*
 - *Union broadens fight over low-paid imported workers, SMH, 27/11/02*
- 7.2. Some years ago the Human Rights and Equal Opportunity Commission (HREOC) convened a meeting of "the social partners" of the International Labour Organisation (ILO), Government (together with some state government representatives), employer groups and the ACTU to discuss and develop promotional and implementing strategies for ILO Convention 111 (Discrimination in Employment and Occupation Convention). In addition to this group there were a number of representatives from community organisations.

- 7.3. HREOC has the responsibility for this Convention in association with the Minister responsible for industrial relations, for it is this minister who, on behalf of the Government, relates to the ILO.
- 7.4. On a number of meetings of this group an action plan was developed with the strong support of all parties.
- 7.5. Despite repeated attempts by officers of HREOC and other representatives, the various ministers responsible for the Convention have refused to consider the plan or convene an advisory group on implementing a national strategy on combating discrimination and racism in the workplace.
- 7.6. The presence of unauthorised workers in number of industrial sectors, for example, building, tourism and agriculture, the use of young backpackers to break strikes and the trafficking of young women in the sex industry contribute to an environment which demand apart from anything else strategic, well resourced anti-racism and equality programmes.
- 7.7. The workplace continues to a major, and in some cases, the most significant, location of complaints of racism and discrimination.
- 7.8. The ACTU believes that rather than formally dismantling these advisory functions of HREOC as is currently being proposed but he Attorney-General, they should be an integral part of an increased, well resourced campaign to combat racism and discrimination in the workplace.
- 7.9. Given both the increased global movement of workers and their families and the need to provide an internationally recognised frame work for the protection and promotion of the rights of migrant workers, the ACTU believes that Australia should ratify the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- 7.10. The Australian Government has not ratified any of the directly related ILO Conventions on immigrant labour. The ILO is currently preparing for a major discussion on the global mobility of labour at its conference in 2004. The ACTU recommends that the Committee take note of this initiative, and encourage the Government, at all levels to actively become involved in both the preparation and follow up to the 2004 discussion. The ACTU is prepared and willing to provide briefing on these developments at the ILO to the Committee.