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Opening statement to Legal and Constitutional Committee

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Madam Chair, Senators. Thank you for the opportunity to deliver an opening statement.

Our administration occurs within a global, regional and national context. People flows to and from Australia affect our economy, our society, and our border security. I would like to use this opening statement to explain that context, which is highly relevant to the information we will be providing you by way of answers to your questions today and tomorrow.

When I last appeared before this committee in February, the northern hemisphere Arab spring uprisings had deposed governments in both Tunisia and Egypt. Protests have since spread and continued in many other countries, and have sparked an ongoing civil war in Libya. The International Organization for Migration estimates that between February and mid-May almost 800 000 people crossed Libya's land borders into neighbouring countries. In comparison, around 12 000 people fled by boat to Italy and, in some cases, to Malta. In these momentous events we witness a singular example of the interplay between what migration specialists inelegantly call *push and pull factors*.

Australia receives around two per cent of the global total of new applications for asylum each year, and these new applications are only a small fraction of the total number of people displaced each year by war, civil unrest, and persecution. Globally, applications for asylum in developed nations peaked in 2002, then fell each year to 2006, before again beginning to rise. This pattern matches the experience of Australia over the past decade.

According to the UNHCR, at the end of 2009 there were more than 43 million people forcibly displaced worldwide, the highest number since the mid-1990s. There were almost 4 million refugees in the Asia Pacific region at that time, accounting for 37 per cent of the total number of people in refugee-like situations worldwide.

Madam Chair, Senators, the world is progressively opening up to greater migration flows, in large part spurred by the mutuality of interests between the developed world with its ageing populations and a rising cadre of young, aspirational, well-educated people in the developing world. There are presently 215 million people living outside their country of birth, accounting for just over 3 per cent of the world's population. By 2050 that figure is expected to approximately double, with increasing flows into the developed world. Those countries that have the capacity to regulate and manage increased flows – and those with the right institutions and the right governance arrangements – are the ones that will benefit from it.

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Within this environment, the department will continue to provide policy support and program delivery services as we have done throughout our 66 year history. To do this we draw on our long experience in this area, together with the use of contemporary research and analysis as well as a keen appreciation of global and regional events.

In the financial year ending June 2010, there were 28.8 million crossings of the Australian border by passengers and crew - a figure almost one third larger than our total population. Even with this very large volume of border crossings, the total number of irregular migrants in Australia at any one point in time constitutes around 0.2 per cent of the population, a rate that is at the low end for all developed nations. By way of comparison, in the United States irregular migration is estimated to be about 20 times larger, that is around 4 per cent of the population.

There has been a substantial public discourse in Australia on immigration issues over the past year or so, some of which has been based on discussion of fact, but sadly some of which has been ill-informed and has engendered public confusion. As an example of this a survey conducted last July by Essential Research found that 38 per cent of the Australian population believed that irregular maritime arrivals constituted at least a tenth of the annual immigration intake. Ten per cent thought it was at least half. The correct proportion of irregular maritime arrivals to the migration intake for 2009-10 was far smaller, at 2.9 per cent of the permanent migration and humanitarian programs.

It is true, of course, that over the last two years or so we have experienced a significant number of irregular maritime arrivals. Australia has experienced irregular maritime arrivals for more than 30 years, in several major waves, and the department is drawing on our long experience in this area in responding to and providing policy advice in relation to the current situation.

In this context, I can confidently state that the endorsement of the regional cooperation framework at the *Fourth Bali Process Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime* in March this year was a milestone in addressing the issues of people smuggling and displacement affecting many countries in the region. The conference recognised that a regional approach is required to address the challenges of people smuggling, and to discourage asylum seekers from the sort of life-threatening sea journeys in overcrowded boats that we have recently tragically seen.

A key policy initiative pursuant to the regional cooperation framework was the Australian and Malaysian Prime Minister's announcement on 7 May this year of a transfer arrangement of asylum seekers with Malaysia. This is a very important initiative under the regional cooperation framework, and the UNHCR and IOM are playing a constructive role in this.

In addition to these new arrangements it is important to note that the department has, for many years, made a significant contribution to international efforts in this area by engaging with regional partners to target people smuggling operations at their source, and build the capacity of regional officials to manage their borders. To date in 2010-11, capacity building training programs have been provided to more than 1350 officials from foreign immigration and border agencies.

Madam Chair, Senators, I'd like to now turn the department's management of the large number of persons currently in immigration detention who are a mixture of clients being processed in relation to their asylum claims, detected for visa non-compliance, or awaiting removal from Australia. Immigration detention can take different forms based in various facilities or in community arrangements. It is for administrative purposes only, not for correctional or punitive purposes. To assist in managing this, we continue our close and very productive engagement with

key advisory groups and stakeholders such as CISSR, DeHAG, and NGO forums, for which I again thank them.

Together with the Australian Red Cross and their partners, we have made significant progress in the expansion of the community detention arrangements since the Prime Minister's announcement late last year. The Minister has approved more than 800 placements for children and vulnerable families to move from alternative places of detention to community-based accommodation, including more than 400 children. The government is also expanding immigration detention accommodation capacity on the mainland to help relieve pressure on existing facilities.

Madam Chair, Senators, we are deeply concerned about the serious issues that exist in relation to deaths in immigration detention and the self-harm and suicide attempts that have occurred in recent months. These events are deeply distressing for a wide range of individuals, including clients and their family and friends, and also for departmental and service provider staff who have been involved in the case management and care of the people affected.

We draw on a model that seeks to positively engage people from the time at which they first enter immigration detention. This approach includes assessing risks as soon as possible, and promoting practices that will minimise factors leading to deterioration of mental health, including prompt referral for appropriate treatment. This approach has been developed with reference to broader mental health policies that emphasise promotion, prevention and early intervention. We will continue to focus very strongly on prevention strategies.

As committee members would be aware, in March and April this year major incidents occurred at the Christmas Island and Villawood IDCs. Both incidents involved contumacious behaviour from some people in immigration detention, including the destruction of Commonwealth property. Protest actions by some detainees risked their own health and safety and that of other detainees, staff and emergency services personnel.

In considering options for managing a major incident, including moving a person from a dangerous situation, such as a rooftop, all elements need to be considered. This includes the safety of those authorities physically undertaking the task as well as the safety of the protestor or protestors. It is important to note that the department has no direct role in removing a person from such a situation, but relies on relevant authorities with expertise in these matters to assess the situation, develop appropriate strategies and then put these responses safely into effect. To this end, suggestions from various quarters that the government should 'just take the people down from the roof' are simplistic and ignore the realities at play in such situations.

To assist in deterring such situations from eventuating the government introduced amendments to the *Migration Act* in April, including a new provision to toughen the character test. Under the changes, the *Migration Act* is proposed to be amended so that a person would fail the character test should they be convicted of any offence committed while in immigration detention.

Immigration detainees, including asylum seekers, have access to Australian systems, including advocates, merits review, legal assistance, the courts and public complaint handling and scrutiny bodies. Their claims are considered in accordance with Australia's international protection obligations, and in the context of Australian Constitutional and Statutory Frameworks. There is a clear, proper and well known legal framework for dealing with any complaints they have about the circumstances of their detention or their immigration status.

Within this context, the department is committed to ensuring rigorous decision making for refugee status determinations. All claims are assessed on an individual basis against the criteria

contained in the Refugees Convention by Commonwealth public servants thoroughly trained in refugee law, using relevant, up-to-date country information.

Let me now turn briefly to our migration program. It is my view, and that of many others, that Australia has been extremely well-served by its migration programs, both permanent and temporary. Migrants come to succeed, not to fail, and generally have a strong work ethic. They fill jobs where there are shortages of skilled labour, boost workforce participation, and are net contributors to the Commonwealth Budget's fiscal balance. These orderly and well-managed programs, week after week, bring doctors and nurses to regional areas, engineers and construction trades workers to new resource projects, IT workers to major financial centres, and help re-unite families.

This year's Budget contained an increase in the size of the permanent Migration Program, up to 185 000 places in 2011-12 and a number of new migration measures. These measures are designed to complement initiatives in other portfolios, particularly around welfare reform, workforce participation and skills, regional development and a sustainable population, to ensure that Australia is well placed to harness the benefits of the resources boom, prompted by the rapid industrialisation of China and India. Significantly, the program has 125 850 skill stream allocated places of which 16 000 are specifically allocated to the regional sponsored migration scheme to address critical skill needs in regional areas. For my department that means delivering on new enterprise migration agreements to assist major resource projects and implementing new regional migration agreements to direct migrants to those parts of the country most in need.

To efficiently deliver these programs, the department remains committed to our ongoing transformation process which continues to provide significant improvements to the way we deliver our services to clients. This will continue to be done by the substantial effort of our hard working and highly professional staff in our operational network.

Madam Chair, Senators, there have been some changes to our senior leadership group since the last Senate Estimates hearing in February. Most significantly of these are at the deputy secretary level following the retirement of Mr Bob Correll PSM who served with the department for nearly six years as a deputy secretary. Ms Jackie Wilson has transferred to the role of deputy secretary of the Business Services Group. Mr John Moorhouse has been promoted to Deputy Secretary of the Immigration Detention Services Group, and Mr Peter Vardos PSM has been promoted to the position of Deputy Secretary for the department's Client Services Group.

Finally, since the last Committee hearings, there have been several calamitous events in other countries, prompting the department's involvement in Australia's emergency response. Besides the civil unrest in the Middle East there was the Christchurch earthquake, followed by the earthquake, tsunami and radiation fallout in Japan. Australia's responses to these events involved a significant number of officers from across the department. Our officers once again have demonstrated tremendous resourcefulness in providing logistical and operational support in rapidly changing environments which effected clients, staff and concerned family and relatives in Australia.

I would like to sincerely acknowledge and thank the efforts of all departmental officers involved in our ongoing work in serving the Australian community and our millions of clients. I would also like to thank our many advisory groups and stakeholders for their ongoing commitment and positive engagement on our many issues.

Thank you.