



Office of International Law

02/7763

17 September 2002

Mr Peter Hallahan
Secretary
Senate Legal and Constitutional References Committee
Parliament House
CANBERRA ACT 2600

Dear Peter

MIGRATION LEGISLATION AMENDMENT (FURTHER BORDER PROTECTION MEASURES) BILL 2002

I refer to Hansard for Monday 19 August 2002 and to the question from Senator Payne (L&C 166). That question and this Department's answer are set out below.

Senator Payne L&C 166

The arrangement that which we are making for off-shore entry persons granted three year visas as refugees is for only one entry into Australia by that person, so not the readmission at any time provision of the schedule to the Refugees Convention. Is there any inconsistency between that and paragraph 13 of the Schedule which requires readmission at any time during the validity of a travel document which is issued to a refugee lawfully staying in the country?

Answer

Article 28 of the Refugee Convention requires Australia to issue to 'refugees lawfully staying in [its] territory travel documents for the purpose of travel outside [its] territory ...'. In Australia's case, such travel documents are issued by the Department of Foreign Affairs and Trade on application. Paragraph 13 of the Schedule to the Convention provides that the holder of such a travel document shall be re-admitted to the territory of the country issuing it at any time during the period of validity.

The visas referred to in the question are issued to enable persons to enter and stay in Australia lawfully for a specified period of time. Article 28 of the Convention and paragraph 13 of the Schedule to the Convention do not dictate the form of a visa facilitating initial entry into/stay in Australia. The fact that such a visa provides for a single entry as opposed to multiple entries is not addressed by those provisions.

The question of a breach of paragraph 13 of the Schedule to the Convention could only arise if a person holding a travel document issued by Australia for the purpose of travel outside Australia was subsequently refused re-entry into Australia. At that point, the circumstances surrounding each individual case would need to be considered in determining whether or not there had been a breach.

Yours sincerely



Mark A Zanker
Assistant Secretary
International Trade and Environment Law Branch

Telephone: 62506647
Facsimile: 62505931
Email: mark.zanker@ag.gov.au