

# Government Response to the Report of the CAAIP

## Ministerial Statement Senator The Hon. Robert Ray, Minister for Immigration, Local Government and Ethnic Affairs

8 December 1988

Mr President, I seek leave to make a ministerial statement on the Government's response to the report of the Committee to Advise on Australia's Immigration Policies.

Mr President, I wish to advise the Senate of the Government's decisions on the report of the Committee to Advise on Australia's Immigration Policies to which, for the purpose of the Statement I will refer as the Committee. At the outset, I wish to pay tribute to the Chairman, Dr Stephen FitzGerald, and the other members of the Committee for their dedication to the very difficult task they had before them; a task which they approached with vigour and imagination. Examination of the issues required a high level of commitment and often personal sacrifice - both of which members gave readily and willingly. I wish to express the Government's appreciation for the personal and collective efforts of all members of the Committee.

I would also like to inform Honourable Senators of the context of the Committee and of the process followed for evaluating its findings. Establishment of the Committee followed a Labor Party election commitment in 1987, in recognition of concerns and misunderstandings about immigration which have grown in recent years. It was the first major examination of immigration in 10 years. In the 9 months it took to examine the issues, the Committee conducted consultations with 587 individuals and organisations; received 970 written submissions and held four workshops

for detailed examination of specific topics including selection mechanisms and legislation. In addition, the Committee commissioned 11 consultancies to advise it on a wide range of immigration related topics. The Committee probably undertook the widest ranging examination of immigration in Australia's history and it has set the broad direction for the changes I am about to announce.

Mr President, that process was not the end of the story. In tabling the Committee's report in the Parliament on 3 June this year, my predecessor, the Hon. Clyde Holding, announced that there would be a period of three months for public evaluation of and comment on its findings; an interdepartmental committee was to be established to examine its proposals and the immigration advisory body, the National Population Council, would be asked to advise on certain aspects. Since the report was tabled, Working Parties of the Council have undertaken detailed analysis and examination of two crucial areas to which I will return later in my address. The Working Parties have made an invaluable contribution and their advice has been crucial to our consideration of the report. I am indebted to them for their assistance.

Mr President, the process for evaluating the report has in many senses been as comprehensive as the process which produced it. Twelve Government Departments participated in the interdepartmental committee. The National Population Council has conducted in-depth research into selection mechanisms and overseas qualification recognition. Over 120 submissions from individuals and organisations, commenting in detail on the Committee's recommendations, have been received. Substantial media and public comment was monitored and analysed. During September, I met with my State and Territory counterparts to discuss the report and visited the capital city of

each State and Territory to hear at first hand the views of ethnic, employer, union, legal, welfare, church, refugee and population group interests.

The Committee's report has aroused considerable interest and controversy. This is not surprising for an issue such as immigration, which touches the lives of every Australian, whether born here or not. Its central message - that immigration should be for all Australians - has received wide support. Its proposals for a sharper economic focus to and through immigration have aroused apprehension among ethnic communities, while being welcomed by commercial and other sectors of the wider community. Some query why we have immigration at all and others call for substantial program increases.

Two areas of the report have aroused particular controversy: multiculturalism and citizenship. The issue of multiculturalism was not central to the report and the subsequent attention afforded to it did not add to the community's understanding of the issue and was at some cost to informed debate on the core immigration issues in the report.

Multicultural policies play no part in immigrant selection. As a quite separate domestic policy, multiculturalism seeks to ensure that those born in Australia and those who migrated to Australia, are equally accorded their rights. Multiculturalism also asks of migrants that they bring a commitment to Australia and to its basic values and institutions which attracted them to migrate.

As a result of our non-discriminatory immigration policy we live in an ethnically diverse community; we are already, in a descriptive sense, a multicultural nation. Multiculturalism is premised on an overriding and unifying commitment to Australia. It embraces basic issues of individual expression, social justice and economic efficiency. We need multicultural policies precisely in order to ensure that insecurity, disharmony, injustice and inefficiency do not disfigure our society.

Mr President, contrary to popular belief, the Committee did not reject the concept of multiculturalism. While reporting widespread mistrust and misunderstanding of the term, it endorsed the need for such a policy. The Government is aware of the misapprehension and confusion within the community. We are currently developing the National Agenda for a Multicultural Australia in order to give sharper definition and direction to the policy.

The Committee rightly identified citizenship as the ultimate expression of commitment to Australia, but in the Government's view proposed an inappropriate strategy for encouraging its acquisition. A commitment stems from deeply felt sentiments. It cannot be developed by coercion or punitive measures which deny benefits to non-citizens. The Government totally rejects such an approach, which denies the contribution that non citizen residents make to Australia through working and through rearing their families here. The Prime Minister's announcement of a 'Year of Citizenship' which he launched on 30 September is a positive approach. Initiatives for the Year are designed to enhance the concept of citizenship; to encourage all who are eligible to acquire it to do so, and to promote awareness of and pride in what being an Australian citizen means.

At the outset of the Committee's work, the Government made it clear that the principle of non-discrimination was not negotiable. Indeed, the Committee found that anti-Asian sentiment was not a major issue. It is regrettable that the Opposition sought to exploit this issue during the course of the Government's deliberations on the Committee's report. It is, however, a telling indictment that members of their own ranks crossed the Floor of both Houses to vote with the Government on our successful motion earlier this year to uphold the principle of non-discrimination. We are already feeling the effects of the so-called 'Asian Migration' debate and our overseas posts have reported considerable concern resulting from it. In order to ensure continued interest in programs such as the Business Migration Program, where Asia has

been our largest source, there needs to be convincing reassurance that Asians are welcome in Australia.

Mr President, this Government remains resolutely committed to the principle of an immigration policy which does not discriminate on the basis of race or ethnic origin. The events since the release of the Committee's report have reinforced that view. In that context I now state that this Government believes that a return to a bi-partisan policy is in the interests of all Australians. I take this opportunity to go on the record and say to the Opposition that should you accept the invitation I now extend to you to return to a bi-partisan, non-discriminatory policy, the Government, for its part, will applaud and in no way seek to take political advantage of the fact that you have done so.

Mr President, before turning to the Government's response to the Committee's report, I want to emphasise some important general points about Australia's immigration program. Firstly, the size and composition of the program reflect quite diverse, but equally important economic, social and humanitarian goals. Certain elements of the program have been specifically tailored to our economic development requirements - for example to attract business migrants with entrepreneurial skills, and to supply young, skilled, educated and readily employable migrants. Some of these migrants are selected for specific skills in short supply, the demand for which cannot immediately be met by domestic training and education programs. These economic migrants, through the skills, capital and expertise they bring, actually create more jobs than they take and make a very positive contribution to our economic development.

In terms of social goals, Australia supports the concept of the family as the natural and fundamental group unit of society. The practice of permitting husband, wife and dependent children to co-reside is also fundamental and underlies our policy approach to the reunion of immediate family members.

In humanitarian terms, Australia is a signatory to the Universal Declaration of Human Rights, the International Covenant of Civil and Political Rights and the 1951 Convention on the Status of Refugees and its 1967 Protocol. As a responsible member of the international community, Australia has an unrivalled record of finding solutions for refugees from around the world and has accepted significant numbers of refugees for resettlement: 470,000 in the last 40 years; 175,000 since 1975. Our efforts have contributed to the welfare of individual refugees, enhanced our high international standing and strengthened our participation in regional and international affairs.

Mr President, bearing this context in mind I now turn to the Government's response to the Committee's report. The Committee made 73 separate recommendations for immigration including a totally new package of legislation. The number and complexity of the recommendations would require a lengthy and detailed treatment which time does not permit.

I propose instead to inform Honourable Senators of the broad approach and principles which underpin the Government's decisions. The Government has adopted many of the themes of the Committee's report and the substance of many of its recommendations. In some areas the Government supports the underlying concepts, although the approach adopted differs in detail. In others, the Government's response diverges significantly from the Committee's proposals. In essence, many of its recommendations confirm current policy directions.

No response on the complex question of immigration will ever receive wholesale and unquestioning support from all quarters of the Australian community, nor are there any magic answers to meet the wishes of all. The Government's task is to find the right balance to achieve outcomes in the national interest and to accord due weight to the competing and often conflicting demands placed upon immigration.

Mr President, the Government accepts the Committee's message that immigration is for all Australians and that it should be in the national interest. Consistent with these principles, we have decided on a responsible immigration policy for the future which will balance economic, social and humanitarian imperatives and which will assist in national planning through immigration research and management. Central to this process is the Government's acceptance of the Committee's recommendations for the establishment of a Bureau of Immigration Research, to which I will return later, and Immigration Outlook Conferences, which will enable us in future to indicate longer term forecasts, and to foster national understanding of immigration.

In the meantime, the migration program for the next two to three years is to be maintained at 140,000 places, comprising three main streams: 71,000 in a family category, 54,000 in an economic category and 14,000 in a humanitarian category, plus a special eligibility category of 1,000 places. While both the level and composition of the program are broadly consistent with the Committee's proposals, its recommendation for 150,000 places is not regarded as justified. The Committee also recommended alignment of the Government's Grant of Resident Status Policies for temporary residents wishing to stay in Australia and its migration policies. These are significantly aligned at present but total alignment would create undesirable consequences, particularly for management of the program. Instead, the Government will continue to account for Grant of Resident Status Approvals within the total planned migration program but will assign them to their respective program elements. The Government has also not accepted the Committee's recommendation that there be a single 'Open Category'; this is seen as too blunt an instrument for achieving program objectives. Instead, the Economic and Family Categories will respectively comprise elements of the present Independent and Concessional Category, each with a different points test to manage the demand for migration places. This will ensure that the overall program level set by

the Government is not exceeded.

Mr President, the Government has adopted a new points system which will be used to select certain categories of migrant from 1 July 1989. The points system was developed by a National Population Council Working Party under the Chairmanship of Glen Withers, Professor of Economics at La Trobe University. It followed extensive research and model simulation, together with consultation with peak employer, employee and community groups, and took the Committee's proposed system as the basis for development. Under the points system, independent applicants will be numerically assessed against an employability factor which awards points for skill, age and language, while extended family migrants will be separately assessed on the basis of points awarded for employability (excluding language) and attributes of the sponsor.

Within the Family Migration Category, a 'balance of family' criterion will apply from tomorrow to parents applying for migration overseas and for the grant of resident status within Australia. Parents with more children in Australia than in any single country or at least an equal number in Australia as overseas, will be selected as close family. Those not meeting this criterion may be considered under the points system for extended family. In recognition of rising welfare costs the Government has revised the basis of the Assurance of Support which currently is sought from sponsors of parents who are within 10 years of retiring age. These will continue to be required, but from April 1989 their provisions will extend to the recovery of unemployment benefits paid to the person assured and the Assurance itself will have effect for 5 years. In future, Assurances of Support will be sought for all parents selected under the balance of family criterion.

The Government has also decided to examine ways of accepting some family reunion applicants who are currently ineligible because of social or medical factors which could result in their becoming a charge on the Australian community. A Parliamentary committee will be

invited to consider the existing scheme of Assurances of Support by sponsors and whether a bonding system for such people can be established under which the Government's social and medical costs would be met. At the same time, the Committee will be asked to examine the feasibility of giving bonus points under the Points Test for applicants who undertake to meet their English language training costs. The Committee would be requested to report by the end of 1989.

The Economic Migration Category will contain as base elements the current Business Migration Program and people nominated by Australian employers under tripartite arrangements negotiated between the Government, Unions and Employers. The current Occupational Shares System will remain in place for the short-term but will be brought together with the Independent sub-category in a points-tested component designed to maximise economic benefits. These changes will apply from 1 July 1989.

In 1989/90 the non-refugee base elements of the program will be close Family Migrants (spouses, dependent children and parents selected under the balance of family) in the Family Category and skilled and business migrants in the Economic Category. Program allocations for these elements will respond to demand for places. The two points-tested components of the program will be independently adjusted up or down according to demand in their respective base elements and will be managed under a 'floating passmark' which the Committee recommended to ensure that the best are selected and that numbers in the overall program are not exceeded.

Mr President, the Government's commitment to refugee issues is strong and will be maintained. Given the sensitivity and complexity of Refugee policy, I wish to announce that a senior position within my Department has been assigned to coordinate our response to refugee and international immigration matters. The establishment of this position will give further impetus to the

Government's ability to focus on and respond to international developments and to people in distressing circumstances. It will also ensure that our official consultations with other Governments and interested Australian community groups are satisfactorily conducted and will enhance our ability to achieve our international immigration and humanitarian objectives.

While noting that resettlement is the least preferred response to refugee situations, the Committee rightly regarded our refugee and humanitarian response as exemplary and as a vital part of our overall immigration program. The humanitarian category will be held to its current program level of 14,000 comprising a 12,500 program for those selected overseas under our Refugee and Special Humanitarian Programs and those in Australia granted resident status on refugee and humanitarian grounds, together with a contingency reserve of 1,500 places. This response is a realistic reflection of need and is similar to the program recommended by the Committee.

Australia's commitment to finding durable solutions to the 13 year Indo-Chinese outflow has been demonstrated in a number of ways, but probably in no better way than our resettlement program. We will not "disengage" from Indo-Chinese refugee resettlement, as the Committee suggested, but we will closely monitor the outflow from Indo-China and respond to changes as and when they occur. We believe that a range of measures and responses is required over and above resettlement, including improved migration programs from the countries of Indo-China and international initiatives to address the continuing outflow. The Government is not attracted to the Committee's proposal that program places be set aside for agency sponsorships, but recognises that churches and voluntary agencies are often well placed to identify specific cases in grave emergency situations. We will examine sympathetically how such agencies can contribute to the speedy handling of such emergency cases and to their support after arrival in Australia.

The Committee proposed in its Model Bill that an independent Refugee Commissioner be appointed to hear on-shore refugee claims in place of the Determination of Refugee Status procedure which was introduced in 1978. The Government has decided instead, to retain the existing determination procedure and enhance it by allocating additional staff and resources to improve and accelerate processing. The Model Bill also proposes the abolition of the Migration Act provisions which deem arrivals who have been refused entry, not to have entered Australia. The Government believes this would create a certain 'pull' factor and could place Australia in a situation faced in some countries where there are tens of thousands of on-shore refugee claimants. The Government has not been able to accept this proposal. Arrangements will also be made for people determined ineligible to remain, but who are without valid national travel documents, to be issued documentation to facilitate their departure.

Mr President, while a minor Special Eligibility Category is to be retained for the migration program, its existing provisions for the permanent entry of self-supporting retirees will be abolished and no new applications will be accepted from tomorrow. Provision will, however, exist for temporary entry for extended stay for retirees who are in a sound financial position. This approach will avoid demands on our health and social welfare systems.

Mr President, the Committee rightly identified problems which exist in procedures for assessing and recognising overseas qualifications. This issue was raised almost without exception at every consultation I held throughout Australia during September. The problems have been with us for decades and despite some recent improvements and a number of current initiatives, many of them remain. The National Population Council Working Party on overseas qualifications under the Chairmanship of Professor Stephen Castles, Director of the Centre for Multicultural Studies at Wollongong University, has identified inefficiencies in wasted skills and labour market rigidities, and inequities in inconsistent administration and

outcomes. Taking into account current Commonwealth and State initiatives it has proposed a model for the recognition of overseas qualifications. The Government values the contribution made by the National Population Council Working Party. The Prime Minister has already announced that the issue of overseas qualifications has recently been referred to the Structural Adjustment Committee of Cabinet. The model developed by the National Population Council, together with other related inquiries on the issue of skill accreditation in Australia generally, has been added to the Committee's agenda for micro-economic reform.

The Committee made a number of recommendations concerning settlement services starting from the basis that my Department should shift priority to those who have been in Australia for less than two years. Rather than being prescriptive on a time frame, the Government has agreed, in this spirit, that my Department should concentrate its settlement programs on the needs-based provision of services for immigrants, with the aim of helping them to integrate into the Australian community and to reach their potential. Consistent with this aim my Department will refocus its settlement activities. It will pay particular attention to the priority needs of annual migration intakes according to the individual's circumstances. Support for women immigrants will continue to be given priority, as one of the areas critical to the settlement process. My Department's strategic role in settlement will be clarified by phasing out duplication with other agencies where it exists, having regard to their access and equity commitments.

Mr President, I referred earlier to the Bureau of Immigration Research which the Committee recommended be established. The Committee was critical of the lack of policy-oriented research and statistical information available to the Government and of the capacity to produce it. I do not necessarily accept that as a criticism of my Department, where priority is given to its very high volume visa activity. The

Government, however, readily accepts the need that the Committee has identified and is to establish a bureau early next year. The Bureau will have an important role in providing facts to combat ignorance and misinformation about immigration and in improving the climate in which immigration issues are considered. The Bureau will have the resources for predominantly commissioned research and will undertake some in-house research. It will undertake formal and informal consultations, including the Immigration Outlook Conferences proposed by the Committee. It will also make an important contribution in facilitating policy development elsewhere in my Department.

Mr President, I now turn to the Committee's proposals for new Immigration legislation. The Migration Act 1958 has come under increasing scrutiny and attack in recent years. Proposals for reform have been put forward by both the Administrative Review Council and the former Human Rights Commission. The Committee proposed that the Act be replaced by a new piece of legislation and produced a Model Bill for this purpose. The Model Bill is an innovative and bold piece of work; it would make changes of the most fundamental kind to existing migration law. But, as bold and innovative pieces of work often do, it carries with it certain risks and uncertainties as to costs, policy, and management of the program. The Government has decided that rather than trying to address all the legislative, procedural and administrative changes in one move, the better course is to pursue reform of the existing Migration Act 1958 and Migration Regulations incrementally. This has the added advantage of allowing changes to commence more quickly. Key amendments will be introduced in the Autumn Session of Parliament, and will lay the groundwork for accountable and consistent decision-making in the immigration jurisdiction.

The major change will be the phased introduction of a statutory two-tier system of review of immigration decisions. The first tier will be statutory review by officers within my

Department but independent of the primary decision-making areas. It will not be subject to direction as to how it should handle individual cases. The second tier of review will be formed by substantially restructuring the Immigration Review Panels. This restructured body will be empowered by legislation to consider cases on their merits and to make the final decision. It will be independent in its operations and procedurally informal. It will have as its members persons whose background and credentials will ensure high quality, professional decision-making. The body will be represented in all States and Territories. Fees will be charged for each tier of review, with a lower fee at the first tier.

Different classes of decision will be progressively referred to this new review system.

Concurrently, the wide discretions within the Migration Act for these classes of decision will be replaced by closely defined entitlements and restrictions set out in Regulations. The Secretary of my Department will be designated as the decision-maker for most classes of decision, although I shall retain the power to determine several classes of decision, notably those involving the deportation of criminals, security matters and refugee determinations. I shall also retain a general statutory power to override any decision of the review panel which, while consistent with the regulations, acts against the interests of the applicant. I shall exercise this power where I believe it to be in the community's interest and, where this occurs I shall table my reasons in the Parliament. These changes are designed to ensure that decision-making is fair, open and accountable, and not susceptible to casual and unrecorded intervention.

The Committee's Model Bill provided for many of the enforcement functions relating to prohibited non-citizens to be carried out through the state law enforcement and justice systems. This so-called criminalisation of enforcement has been widely opposed as harsh and out of step with criminal law policy. It places a potentially heavy burden on the state police, court and penal systems. While the

Government will not be taking this course, it is concerned to ensure that the deportation process is both just and effective. The introduction of the new review system will ensure that a person's claims to stay in Australia, temporarily or permanently, will be rigorously and impartially tested. If those claims are found to be wanting, then departure should follow. If the person fails to depart within the time provided, deportation will be mandatory.

I have highlighted certain areas where the Government's decisions do not precisely follow the Model Bill. I would emphasise, however, that while the Bill will not be introduced into Parliament in its recommended form, its ideas and innovations will be drawn upon in reforming the Migration Act 1958.

Mr President, the Government's decisions on the Committee's report which I have announced represent an equitable and balanced approach to immigration. We have maintained our commitment to social and humanitarian needs in a responsible and responsive manner, while at the same time addressing an economic focus to immigration. The program size and composition for the immediate future is a realistic response to competing demands and priorities. It will continue to provide for the reunion of close family. Extended family will be specifically recognised through a separate points-tested category within the Family Migration stream. The economic focus will be achieved by enhanced selection mechanisms under tripartite negotiated arrangements between Government, Unions and Employers, and under a revised points system for independent applicants stressing economic qualities. Humanitarian programs have been maintained and procedures for the Determination of Refugee status in Australia are to be enhanced.

Improved management of the program under the Committee's recommended 'floating passmark' concept will ensure that annual intakes are kept within planning figures and do not simply respond to demand. The recommended new Bureau of Immigration

Research and under its aegis, the Immigration Outlook Conferences, will improve the climate of immigration by providing necessary research and information for better planning and understanding. The Migration Act and Regulations will be incrementally overhauled to ensure, as the Committee sought, fairer, clearer and more accountable decision-making in my portfolio.

Mr President, the measures I have announced comprise major reforms to immigration policy and administration. The reforms, together, are the most significant innovations in Australia's migration policies to have occurred during the last two decades. The Government has attempted to strike a responsible balance between the economic, social and humanitarian objectives of the immigration program. We have designed a system of program management which will deliver the planned outcomes. Through our emphasis on a strong research base, we will bring immigration into the mainstream of economic and social planning. Nor have we lost sight of the individual. The changes to the legislative framework will ensure that administration is demonstrably open, consistent and equitable. The principle of equity is fundamental to this entire package. It is about giving all people a fair chance within the context of a program that serves the interests of the Australian people. I am also glad to announce that these reforms are expected to result in a net reduction in Commonwealth expenditure in the long term.

I thank Honourable Senators for hearing me today on this important package of decisions by the Government.

I present the following paper: Government response to the report of the Committee to Advise on Australia's Immigration Policies - Ministerial Statement, 8 December 1988.

Mr President, I also seek leave to table a Matrix which sets out the Government's response to each of the 73 recommendations of the Committee to Advise on Australia's Immigration Policies.