

1994

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

MIGRATION LEGISLATION AMENDMENT BILL (No.4) 1994

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendment to be Moved on Behalf of the Government

(Circulated by authority of the
Minister for Immigration and Ethnic Affairs,
Senator the Hon. Nick Bolkus)



MIGRATION LEGISLATION AMENDMENT BILL (No.4) 1994

OUTLINE

1 The Migration Legislation Amendment Bill (No.4) 1994 ("the Bill") seeks to ensure that asylum seekers who have had access to protection in another country should not have access to Australia's system of protection, other than in exceptional circumstances.

2 The need to amend the *Migration Act 1958* ("the Act") to this effect has been demonstrated by the recent unauthorised arrival of boat people from the Galang Processing Centre in Indonesia. These people are covered by the Comprehensive Plan of Action ("CPA") for Vietnamese and Lao refugees and have already had their claims fully considered in a process approved by the United Nations High Commissioner for Refugees ("UNHCR").

3 The CPA was the response of the international community to the outflow of Vietnamese and Lao asylum seekers during the 1970s and 1980s. It was adopted in Geneva on 14 June 1989 by:

- . the governments of countries from where asylum seekers originated (Vietnam and Laos), countries or a territory which offered first asylum to boat people (Indonesia, Malaysia, the Philippines, Thailand and Hong Kong) and countries offering resettlement of refugees (including Australia); and
- . UNHCR.

4 The CPA is specifically covered in the Bill because it is the major agreement on refugee status determination in our region.

5 The proposed amendment to the Bill is of a minor and technical nature. It amends a number of proposed provisions inserted by Item 1 of Schedule 3 of the original Bill. The amendment will provide for a more detailed Ministerial statement under proposed sub-clause 91D(3) of Item 1 of Schedule 3 in respect of regulations prescribing a "safe third country" ("STC") for that non-citizen. A STC for a particular non-citizen will be a country that is prescribed by the regulations, and with which the non-citizen has a prescribed connection.

FINANCIAL IMPACT STATEMENT

6 The amendment proposed to the Bill will have no additional impact to the financial impact outlined in the Bill as originally introduced to the Senate.

MIGRATION LEGISLATION AMENDMENT BILL (No.4) 1994**NOTES ON THE AMENDMENT****Schedule 3, Item 1 - paragraph 91D(3)(a)**

1 This paragraph replaces paragraph 91D(3)(a) as originally proposed in Schedule 3, Item 1 of the Bill to effect a minor and technical amendment. The amendment relates to the obligation upon the Minister to lay a statement before Parliament. The statement is to include information about the compliance by the country, or each of the countries, prescribed as a STC, with relevant international law concerning the protection of persons seeking asylum.

Schedule 3, Item 1 - paragraph 91D(3)(b)

2 This paragraph replaces paragraph 91D(3)(b) as originally proposed in Schedule 3, Item 1 of the Bill to effect a minor and technical amendment. The amendment relates to the obligation upon the Minister to lay a statement before Parliament. The statement is to include information about the meeting by the country, or each of the countries, prescribed as a STC, of relevant human rights standards for persons in relation to whom the country is prescribed as a STC.

Schedule 3, Item 1 - paragraph 91D(3)(c)

3 This paragraph introduces an additional requirement to those proposed originally in the Bill. It requires that the statement of the Minister must include information about the willingness of the country, or each of the countries, prescribed as a STC, to allow any person in relation to whom the country is prescribed as a STC to go to, and to remain in the country while any claim for asylum by the person is being determined. The statement is also to include - where the person is determined to be a refugee while in the country - information about the willingness of the country to allow the person to remain in the country until a durable solution relating to the permanent settlement of the person is found.

