

Four Country Conference - Items for Follow-up

1. Intelligence There is a need to find a means of quickly and effectively sharing operational intelligence on smuggling activities and routes. Lead: Canada.
2. Overseas Interdiction s. 33(b), s. 37(2)(b)
[REDACTED]
3. Removal Strategies Co-operation and information-sharing is required on removal and transit issues for asylum seekers. Lead: United Kingdom.
4. Security and Identity Further discussion, sharing of information and co-ordination is needed amongst the four countries to ensure that there is a compatibility of biometric technology standards. Lead: Australia.
5. Organization of Travel The four countries will pursue discussions on fastpass technologies being used to facilitate business travel, s. 33(b)
[REDACTED]
6. Alternatives to Detention The four countries would like to share experiences and explore alternatives to detention, s. 33(b), s. 37(2)(b)
[REDACTED]
7. Illegal Immigration, UNHCR and NGOs The four countries would like to promote more interaction at senior levels amongst the UNHCR, international NGOs, and the four countries, with the objective of building a more common understanding of the nature of and the dilemmas posed by illegal immigration. Many NGOs appreciate the damage being done to refugee determination systems by economic migrants who use them, and these NGOs could be a useful part of overall discussions. s. 33(b)
[REDACTED]
Lead: Australia.
8. Criminal Removals There may be alternate strategies which are worth exploring to promote more effective re-integration in the countries of origin. s. 33(b), s. 37(2)(b)
[REDACTED]

9. Convention Against Torture While there are many complex issues involving CAT, s. 33(b), s. 37(2)(b) [REDACTED] s. 33(b)
10. s. 33(b), s. 37(2)(b) [REDACTED]
11. Bonds for Visitors The four countries are interested in exchanging information on visitor visa bonds. Since the United Kingdom is developing a pilot on bonds, it will keep others informed of the design and results. Lead: United Kingdom.
12. Y2K compliance

s. 33(b), s. 47F(1) [REDACTED]

Four Country Conference 8-9 April 1999

Agenda Item 1: Welcoming Remarks

- A. Provisional Annotated Agenda
- B. List of Attendees
- C. Biographies

Agenda Item 2: International Trends and Risk Assessment

Joint overview briefing followed by discussion on trafficking, smuggling, fraudulent documents, overstays and overseas cooperation.

Agenda Item 3: Asylum Trends

Joint overview briefing followed by discussion on trends, practices, obligations and non-removal issues.

Agenda Item 4: Removals

Review of experiences, problem identification and comparison, difficulties of removal and impacts.

Agenda Item 5: Informal Principals' Discussion

Discussion on the roles of International Organisations and problem governments.

Agenda Item 6: Removals (cont)

Discussion on mandatory detention, alternatives to detention and removals (incentives to gain cooperation of countries of origin for accepting return of nationals).

Agenda Item 7: Public Communications, Working with NGO's and Principals

Working breakfast.

Agenda Item 8: Interplay of International Law and Domestic Law

Discussion on international instruments (eg Torture Convention) and appeals to extraterritorial remedies.

Agenda Item 9: Benefits of International Mobility: Policies and Reforms

Overview briefing on benefits followed by discussion on travel documents, business mobility and temporary programs, GATS, NAFTA, APEC and opportunities for cooperative actions.

Agenda Item 10: Immediate challenges of reform (organisational structure, legal reform).

Luncheon informal principals discussion.

Agenda Item 11: Service and Benefits

Discussion on new forms of client services, information availability and use and standards of service.

Agenda Item 12: Areas for specific cooperation

Agenda Item 13: Wrap-Up: Future of Four Country Conference

Agenda Item 14: Closing Remarks

Four Country Conference 8-9 April 1999

AGENDA

Wednesday 7 April

Receive Conference material in the Tour Lobby, Lobby Level, The Argent Hotel
between 1600 – 1800

Evening Reception (Timings and Venue to be advised)

Thursday 8 April - Hotel Argent

8:00 – 8:45 AM Working Breakfast at Café 53 Restaurant Hotel Argent

Discussion of Goals
Principals
Staff

9:00 AM

Agenda Item 1: Welcoming Remarks

- A. Itineraries
- B. List of Attendees
- C. Biographies – USA, Canada

9:15 AM

Agenda Item 2: International Trends and Risk Assessment

Joint overview briefing followed by discussion on trafficking, smuggling, fraudulent documents, overstays and overseas cooperation.

- A. DIMA Brief – People Smuggling
- B. DIMA Fact Sheet – Locating Overstayers In Australia
- C. DIMA Fact Sheet – People Smuggling
- D. DIMA Brief – International Trends UK
- E. Background Notes – UK Immigration and Asylum Bill
- F. DIMA Brief – International Trends and Risk Assessment
- G. Canada Report on Plans and Priorities – Canada

10:45 AM BREAK

Thursday (Continued)**11:00 AM****Agenda Item 3: Asylum Trends**

Joint overview briefing followed by discussion on trends, practices, obligations and non-removal issues.

- A. DIMA Brief – Misuse of Asylum System
- B. Onshore Protection Statistics
- C. Migration News – Asylum Applications
- D. DIMA Brief – UK Asylum
- E. DIMA Brief – UK Immigration and Asylum Appeals
- F. Migration News – United Kingdom Asylum
- G. DIMA Brief – Asylum Trends Canada
- H. Report on Plans and Priorities – Canada

12:30 PM LUNCH (Franciscan III HOTEL ARGENT)

Private Sector Speaker ‘*Pacific Challenges and Opportunities*’

2:00 PM**Agenda Item 4: Removals**

Review of experiences, problem identification and comparison, difficulties of removal and impacts.

- A. DIMA Brief – Unauthorised Arrivals
- B. DIMA Brief – UK Border Control, Compliance and Enforcement
- C. DIMA Brief – Removals Canada
- D. Report on Plans and Priorities - Canada

3:00 PM**Agenda Item 5: Coffee Break - Informal Principals’ Discussion**

Discussion on the roles of International Organisations and problem governments.

- A. DIMA Brief – UNHCR
- B. Statement To Annual Council Meeting IOM
- C. DIMA Brief – IOM
- D. DIMA Brief – APC
- E. DIMA Brief – The Puebla Process
- F. DIMA Brief - International Committee of the Red Cross

Thursday (Continued)**4:00 PM****Agenda Item 6: Removals (cont)**

Discussion on mandatory detention, alternatives to detention and removals (incentives to gain cooperation of countries of origin for accepting return of nationals).

- A. DIMA Brief – Australia's Detention Policy
- B. Australia's Intervention on Protection
- C. Testimony of Ms Doris Meissner to US Senate on Detention issues
- E. Refugee News – The TAM Case
- F. USA Immigration Bulletin NO 1/99
- G. Migration News – INS Detention, Removal, Border
- G. DIMA Brief – UK Detention
- H. DIMA Brief – Detention Canada
- I. UNHCR Detention Guidelines
- J. Human Rights Watch Report - Detention

7:00 PM **DINNER** (Time and location to be announced)

FRIDAY 9 APRIL**8:00 – 8:45 AM****Agenda Item 7: Working Breakfast - Public Communications, Working with NGO's and Principals**

- A. DIMA Brief – Public Communications, NGO's and Principals
- B. DIMA Brief – Working with NGO's
- C. Australia Statement to EXCOM – 9 February 1999
- D. Report on the Regional Tripartite Consultations on Resettlement

9:00 AM**Agenda Item 8: Interplay of International Law and Domestic Law**

Discussion on international instruments (eg Torture Convention) and appeals to extraterritorial remedies.

- A. DIMA Brief – General Policy Discussion
- B. DIMA Brief – Summary of Main Issues For Australia
- C. DIMA Brief – Related Complaints to UN Committees
- D. DIMA Brief – Key International Obligations Potentially Relevant to the Migration Legislation
- E. DIMA Brief – Obligations Under Refugee Convention and Other International Conventions
- F. USA Immigration Bulletin 1/99 - CAT

10:30 AM **BREAK**

Friday (Continued)**10:45 AM****Agenda Item 9: Benefits of International Mobility: Policies and Reforms**

Overview briefing on benefits followed by discussion on travel documents, business mobility and temporary programs, GATS, NAFTA, APEC and opportunities for cooperative actions.

- A. DIMA Brief – APEC: Mobility of Business People
- B. DIMA Brief – Australian Business Card
- C. DIMA Brief - GATT
- D. Background Brief – Temporary Entry of Business Travellers Under the NAFTA

12:30 PM LUNCH**Agenda Item 10: Lunch – Informal Principals' Discussion - Immediate challenges of reform (organisational structure, legal reform).**

- A. DIMA Brief – Immediate Challenges of Reform
- B. USA Immigration Bulletin – INS Reorganization Slow Going
- C. Migration News – INS Budget and Management

2:00 PM**Agenda Item 11: Service and Benefits**

Discussion on new forms of client services, information availability and use and standards of service.

- A. DIMA Client Service Charter
- B. DIMA Fact Sheet – Immigration Advice and Application Scheme
- C. DIMA Fact Sheet – Assisting skilled and business people
- D. DIMA Fact Sheet – Settlement Assistance For Refugees and Humanitarian Entrants
- G. DIMA Fact Sheet – Community Refugee Settlement Scheme
- H. DIMA Fact Sheet – National Integrated Settlement Strategy

3:00 PM**Agenda Item 12: Areas for specific cooperation**

- A. DIMA Brief – Information Exchange Arrangements
- B. Report of the Border Vision Interdiction Working Group

4:30 PM BREAK**4:45 PM****Agenda Item 13: Wrap-Up: Future of Four Country Conference****5:00 PM****Agenda Item 14: Closing Remarks**

Agenda Item 2

Canadian policy in relation to trafficking, smuggling, fraudulent documents, overstays and overseas cooperation.

Four Country Conference

Agenda Item 10: Immediate Challenges of Reform

Organisational Structure

1997 and 1998 saw the completion of a major restructure of the Department aimed at aligning policy and operational areas more closely. One of the main changes was to strengthen the Department's border management function. The new structure also enabled a number of functions to be outsourced to the private sector.

The restructure firmly focussed the Department's operations on its core business - the managed entry of people to Australia, the successful settlement of migrants and refugees and the promotion of the benefits of citizenship and cultural diversity.

1998 saw the completion of the Client Service Charter and the successful negotiation of a new Certified Agreement on working conditions for staff. The Client Service Charter, introduced on 1 July 1998, will help ensure that the Department is more responsive to clients' needs and that they have the opportunity to comment on the quality of service. New flexible opening hours for departmental offices provided for under the Certified Agreement will help achieve this. Both the Charter and the Agreement will have positive long-term effects on the way the Department operates and services its clients.

Client services

The Client Service Charter commits the Department to performance standards in such areas as explanations of decisions and information on review rights, response times for requests for forms and information, expected waiting times for across-the-counter transactions and acknowledgment times for document lodgment. An important feature of the Charter is a clear and simple complaints-handling mechanism. The different operating environments in the Department's offices in Australia and overseas are also reflected in the Charter.

Streamlining TIS

In the Settlement area, the provision of language services was reviewed and major administrative changes were made: the Translating and Interpreting Service (TIS) was streamlined so that five TIS offices (in Adelaide, Brisbane, Canberra, Darwin and Hobart) were consolidated into three administrative centres in Perth, Melbourne and Sydney.

Outsourcing arrangements

Adult Migrant English Program services, previously delivered by State government agencies, were contracted out to a range of service providers, including State-based providers. A major function of the Compliance area, the management of detention centres, was transferred from the Australian Protective Service to a private sector company, Australasian Correctional Services.

The Department's information technology services were also outsourced through an innovative business alliance with a private sector company, Computer Sciences Corporation (CSC) Australia.

Policy Initiatives

Migration Program

Three major reviews of aspects of the Migration Program resulted in significant policy changes, including alterations to the aged parents sub-category, better targeting of the points-tested skilled migration categories to improve migrants' job prospects, and measures to enhance the integrity of the overseas student visa program while supporting the growth of this economically important temporary entry category.

The full impact of measures introduced in 1996 to increase the scrutiny of bona fides in spouse, fiancé(e) and interdependency cases became apparent in 1997/98, with a 29 per cent decline in the application rate compared with that of the previous year and a doubling of the average rate of refusals. At the same time, the Immigration Review Tribunal set aside 20 per cent fewer decisions to refuse applications.

The Department also managed one-off residency provisions for certain people who had been in Australia temporarily under humanitarian arrangements and who had remained for some time with their status unresolved. These applied to people whose countries of origin were Iraq, Kuwait, Lebanon, the People's Republic of China, Sri Lanka and the former Yugoslavia region. About 6570 people applied and most applications have been finalised.

Border management and compliance

The Department has undertaken an increased level of compliance activity, reflecting the Government's commitment to protecting the integrity of Australia's borders. Monitoring and managing huge numbers of passengers, including the detection of unauthorised arrivals or people of concern to the Government, is a major component of the border control function. Ninety-five per cent of passengers are cleared through immigration within 30 minutes of arrival.

MAL Upgrade

Foreign nationals of concern are largely identified by checking the Department's Movement Alert List (MAL). In 1997/98, MAL was upgraded, including the installation of new name-matching computer software. Alerts are now categorised by risk and greater resources are devoted to detecting those who pose the greatest risk to the community. Airport staff intercepted 626 passengers of concern outside Australia, compared with 436 the previous year, and refused entry to 1555 passengers with irregular travel documents (1350 in 1996/97). A significant increase in unauthorised air arrivals, 1550 compared with 1347 in 1996/97, posed a new challenge to the Department. Additional funding allocated in the May 1998 Budget will allow more resources to be directed to stemming this tide at its source.

Unauthorised Boat Arrivals

In 1997/98 considerable success was achieved in reducing the number of unauthorised boat arrivals, largely through ongoing dialogue with source countries. In all, 159 boat people arrived in 1997/98, compared with 365 in 1996/97. As a result, boat arrival detention days fell to 29 836 compared with 89 057 in 1996/97.

Expansion of the ETA

1997/98 also saw the Electronic Travel Authority (ETA) become widely accepted as a means of obtaining authority to travel to Australia; more than 70 per cent of short-term visas were issued as ETAs world-wide. By the end of 1997/98, some 94 per cent of all visas for ETA-eligible nationals were issued as ETAs.

Detention: Removals

The average number of days in detention dropped from 60.6 in 1996/97 to 44.8 in 1997/98 due to a reduction in processing times and greater efficiency in the removal of people who have exhausted all avenues to remain in Australia. The Budget included funds for major redevelopment of the Villawood Detention Centre in Sydney.

Multicultural Affairs

Multicultural Affairs continued to be a major priority area. The Department assisted the National Multicultural Advisory Council in its compilation of a report for the Government on future directions in multiculturalism. The Council launched an issues paper, *Multicultural Australia: The Way Forward*.

Work continued on the development of the Anti-Racism Campaign, which was subsequently launched, in August 1998, on the theme 'Living in Harmony'. The Department provided advice to other portfolios on implementing The Charter of Public Service in a Culturally Diverse Society across the Commonwealth. Significant progress was made in promoting Productive Diversity principles in the private sector. Initiatives included seminars and the production of an information kit.

Settlement strategies

The Integrated Humanitarian Settlement Strategy (IHSS) has been enhanced to take a more holistic approach to settlement services for Humanitarian Program arrivals. The year saw additional funding and innovative partnerships with non-government organisations for the development of early intervention strategies to meet the special needs of refugees.

Information activities

During 1997/98 the Department produced *Australian Immigration: the Facts*, an information kit aimed at overcoming misinformation about immigration as well as airing issues associated with Australia's cultural diversity. The kits were sent to more than 15 000 people and institutions, to foreign diplomats in Australia, to all our missions overseas and to individuals on request. Internet access to the kit averaged 800 hits a week.

Recent Legal Reform

Humanitarian Program

The Department implemented a range of measures to respond quickly to applications from genuine asylum seekers while dealing appropriately with applications from those seeking to lengthen their stay in Australia and gain access to benefits. The measures included introduction of a \$1000 fee for Refugee Review Tribunal reviews of protection visa decisions, payable when the RRT has affirmed the primary decision; making work rights available only to asylum seekers who have applied for a protection visa within 45 days of entry; and limiting to 21 days the period in which the applicant may seek review by the Migration Internal Review Office (MIRO) or the Immigration Review Tribunal (IRT).

Review of Migration Decisions

Previous measures aimed at reducing judicial review

In 1989 amendments to the Migration Act provided, for the first time a statutory merits review procedures for most migration decisions, by the Migration Internal Review office (MIRO) and the IRT. It was envisaged that by removing the broad discretion of decision-makers, and replacing it with codified criteria for grant of visas, in conjunction with statutory merits review of certain decisions, that recourse to judicial review would be less necessary. This did not prove to be the case.

The Migration Reform Act 1992 made further significant amendments affecting both merits and judicial review. The most important features of this reform were the introduction of a detailed statutory code of procedures for most primary decisions, setting minimum standards for dealing with a visa application and the creation of a migration specific judicial review scheme.

The Administrative Decision Judicial Review Act as s39B of the Judiciary Act was replaced with part 8 of the Migration Act, which removed certain grounds of review such as the grounds of natural justice, unreasonableness and relevant and irrelevant consideration because of a perception that the Federal Court was using these grounds as means to engage in merits review. While Part 8 became the sole source of the Federal court's jurisdiction to review migration decisions, the High Court retained its original jurisdiction.

In addition, the RRT was created to provide independent merits review of refugee determinations. And independent merits review was extended to many decision previously not covered.

It was envisaged that with increased merits review, a more certain procedural framework and reduced grounds of judicial review, there would be less need for applicants to seek judicial review. This has not been the case.

Trends In Litigation

The past few years has seen a significant increase in immigration litigation. The proportion of applications for review of decisions made by the IRT and RRT has been increasing since 1993-94. Since they began operating, there has been an almost 2000 per cent increase in applications to review IRT decisions and nearly 900 per cent increase in applications to review RRT decisions.

The increasing volume of cases heard by the IRT and RRT, due to their increased efficiency and effectiveness, has resulted in a significant increase in the overall litigation workload. For example, during 1997-98, 1055 new matters were filed in the Courts and the AAT compared with 920 new matters in 1996-97. Previously, there were 758 new matters filed in 1995-96, 516 filed in 1994-95 and 455 in 1993-94.

The table below sets out new applications filed in the Federal Court to review IRT and RRT decisions. The percentage reflects the number of decisions that were upheld by the tribunals which were then taken to the Federal Court, ie – the “flow through” rate.

Applications to the Federal Court				
Year	Number of new matters	IRT %	Number of new matters	RRT %
1990-91	5	4.6%		
1991-92	15	2.6%		
1992-93	43	5.3%		
1993-94	66	7.9%	53	3.6%
1994-95	42	6.3%	204	8.3%
1995-96	87	9.7%	282	10.2%
1996-97	175	11.6%	410	11.7%
1997-98	98	7.9%	470	8.8%

In 1997-98, 308 Federal Court applications, or 81 per cent, were dismissed and only 60 decisions, or 19 per cent, needed to be reconsidered. Some 292 Federal Court applications were discontinued by applicants before hearing. The table below sets out Federal Court and AAT resolutions since the 1993-94 financial year.

Resolutions since 1993						
Year	App't'	M'ster	App't win	M'ster	Other*	Total
1993-94	112	93	39	119		363
1994-95	181	118	51	117	1	468
1995-96	225	161	24	135		545
1996-97	403	154	31	285	3	876

1997-98	349	166	84	392	9	1000
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*Such as remittals in full by the High Court

s. 47C(1)

Agenda Item 11: Services and Benefits

DIMA strategies include:

- Commitment to ensure immigrants and humanitarian entrants are able to participate fully in Australian society.
- Establishing partnerships in settlement between community and all levels of government – NISS, IHSS, and Charter of a Public Service in a Culturally Diverse Society.
- Legislative entitlement to English language tuition – AMEP backed up by TIS.
- Targeting settlement resources to those in greatest need and those who need special settlement assistance.
 - Independent, Business and Skilled migrants should be essentially self-reliant with little need for Government assistance.
 - Family and other sponsored migrants should be assisted by their sponsors in the settlement process (income test sponsors, incur social security costs in first two years).
 - Humanitarian entrants will need substantial assistance from the Government.
- In addition to post-arrival services, the Government's services and benefits include assistance provided to asylum seekers – the Asylum Seeker Assistance Scheme (ASAS) and the Application Assistance Scheme (AAS) – in particular, to those in detention.