

22.07.05

Committee Secretary,  
Senate Foreign Affairs, Defence and  
Trade References Committee,  
Department of the Senate,  
Parliament House,  
Canberra ACT 2600.

Dear Secretary,

**RE: Inquiry into asylum and protection visas  
for consular officials and the deportation,  
search and discovery of Vivian Solon.**

Please be advised that I have perused the Committee's Terms of Reference and read with interest the written submissions that have been filed. Whilst I note that the Committee requested submissions to be lodged by 08 July 2005 I would like to inform the Committee as follows:

1. For some years now the Department of Immigration has maintained a list of the names of nationals of the People's Republic of China with respect to whom that country has sought their repatriation from Australia. This list has been described in inter-Departmental communications as being "sensitive" and as being a list that "is closely monitored by the Minister". In one particular case it can be clearly shown that repatriation of a person whose name is on this list has been sought so that the national may be prosecuted upon a serious criminal charge.
2. Australia does not have an Extradition Treaty with the People's Republic of China.
3. In one particular case it can be shown that the modus operandi of the Department was that upon receipt of information about the national from Chinese Officials, through officers of the Department stationed in Beijing, a submission was put to the Minister to personally refuse/cancel a visa pursuant to s.501(3) of the Migration Act 1958. This power does not require the giving of any notice to the person who is seeking, or who holds, an Australian visa. Consequently, if the power is exercised the chinese national, who until then has been lawfully in Australia, is notified of the decision and at the same time is taken into immigration detention. This is in fact what happened in this particular case.
4. The information that is supplied by the Chinese Officials will be protected from disclosure by s.503A of the Migration Act 1958.
5. During the course of legal proceedings wherein evidence was being properly

sought from a departmental officer in order to ascertain how widespread this practise was, and presently is, the Attorney-General of the Commonwealth issued a certificate effectively precluding further cross-examination in relation to this aspect of the case. This suggests that this modus operandi is widespread and involves all persons named on the list.

6. Consequently, the Committee may feel that it is appropriate for it to enquire, as a related matter or otherwise, into:
  - (a) the potential response of the named Departments of State to any request made, or that may be made, by Chinese Officials for the repatriation of Mr. Chen Yonglin, or any other consular official, pursuant to this practise; and
  - (b) whether the requirements of the Migration Act 1958 and the regulations and guidelines made and promulgated thereunder concerning the maintenance of confidentiality have been observed and respected in the application of this practise.

Yours faithfully,

R B Wilson  
Barrister-at Law