

Competition for skilled workers

- 3.1 The Committee examined the entry program and management policies of nations identified as competing with Australia for skilled migrants. The seven countries were Canada, Germany, Ireland, Japan, New Zealand, United Kingdom (UK), and the United States of America (USA).
- 3.2 At this point it became evident that there could be difficulty in comparing the skilled migration regimes of different countries. To take one simple example: when the US referred to “immigrant” labour it meant permanent settlers. “Non-immigrant” workers in the US did not mean “native born”, rather it referred to temporary entry workers.
- 3.3 The Committee has endeavoured to ensure that, as far as possible, it compared like with like in this review, but has not done so slavishly if that obscured, rather than illuminated, overseas practices.

Temporary skilled migration

- 3.4 All countries which the Committee reviewed permitted temporary migration of skilled migrants, and many had approaches similar to that of Australia. Most countries examined had recently made significant changes to their migration arrangements in order to maximise their attractiveness to skilled migrants. In 2003 alone:
- The **United Kingdom** introduced a “Sectors Based Scheme” for low-skilled temporary migrants¹ and permitted Working Holiday Makers to take up work in any sector, for as long as they want, on a full-time basis, effectively making it a temporary skilled migration arrangement

1 Work Permits (UK), *Application Forms and Guidance Notes – Sectors Based Scheme*, Home Office, www.workpermits.gov.uk

rather than a working holiday.² It also revised its Highly Skilled Migrant Program, adding special criteria for those under 28 and taking increased account of partner's achievements.³

- **New Zealand** made job offers mandatory in mid 2003 then, in December 2003, completely re-wrote its skilled migration program.⁴
- **The United States of America**, through a sunset clause, lowered the annual numbers of temporary skilled migrant (H-1B) visas from 195,000 to 65,000, removed a number of penalties for employer exploitation of the scheme, and eliminated an H-1B fee of \$1,000 designed to support low-income scholarships and job training programs for workers.⁵

Common approaches

- 3.5 Ireland, New Zealand and the UK monitored the labour market to establish the full mix of skills in demand, as opposed to identifying very specific short-term shortages.⁶ As in Australia, this approach assisted the management of their migration programs.⁷ Also like Australia, most countries allowed skilled temporary migration only if no suitable national was available to undertake the work.⁸

Job offer

- 3.6 Most countries also required that the temporary migrant had a job to go to. The UK's *Highly Skilled Migrant Program* had limited special arrangements which permitted selected migrants to enter the country without a job offer. Australia's job offer requirements varied according to the skilled migration scheme.

Targeted recruiting

- 3.7 Like Australia, Canada, Ireland, Germany, UK and USA had modified their temporary residence programs to attract ICT personnel and others whose skills were temporarily in short supply:

2 Announcement on the review of the working holidaymakers [20 June 2003]. www.ind.homeoffice.gov.uk/news.asp?NewsId=285

3 UK Home Office, Working in the UK -Press - UK welcomes more high flyers, www.workingintheuk.gov.uk/working_in_the_uk/en/homepage/news/press

4 NZIS, *Migrate to New Zealand*. www.immigration.govt.nz/Migrate/#Applying+for+residence+as+a+skilled+migrant

5 U.S. Department of Labor Employment & Training Administration (DOLETA), *Foreign Labor Certification Pre H-1B form*, <http://atlas.doleta.gov/foreign/preh1bform.asp>

6 The USA's *Labor Market Information Pilot Program* monitors shortage occupations in the context of permanent migration. Tips for U.S. Visas Employment-Based Visas, <http://travel.stste.gov/visa:employ-based.html>

7 Canada, Germany and Japan did not appear to taking this approach.

8 In the case of Ireland, Germany and UK, an additional requirement was that no-one from the EEA was available.

- **Canada** introduced a program of streamlined processing for ICT specialists in May 1997 and in 2002 permitted spouses/partners of temporary skilled workers to work.⁹
 - **Ireland** introduced the *Work Visa* as “a fast-track alternative to the work permit...to facilitate recruitment of overseas nationals to sectors experiencing particular skills shortages” in June 2000¹⁰ and extended the scheme to “a whole new range of professions” in the medical health and social care sectors in May 2002.¹¹
 - **Germany**, which normally permitted foreigners to be “issued with work permits in exceptional cases”¹², inaugurated a *Green Card* program to run until 2003 “to address the personnel shortage in the computer and information industries”.¹³
 - The **UK *Highly Skilled Migrant*** points-based program began in January 2002, to run for 12 months, “to provide an individual migration route for highly skilled persons who have the skills and experience required” by the UK.¹⁴ In September 2002 the UK removed all ICT jobs from its *Shortage Occupation List*.¹⁵
 - **USA** increased, for a short time, the number of temporary *H1-B Visas* by 70% to provide a “balanced approach to help meet the needs of high-technology firms who are experiencing a major labor shortage”.¹⁶
- 3.8 The changes were intended to address specific short term shortages, as the subsequent removal of ICT jobs from the UK program in late 2002 indicated.
- 3.9 Australia had followed a similar course, introducing priority processing for ICT workers in February 2001. The Australian scheme was claimed to be more streamlined in operation and more generous than comparable overseas arrangements. For example, the spouses of the temporary ICT

9 CIC, News Release 98-69 *Canada to continue expedited processing of High-Tech Workers*, 29/12/98,

www.cic.gc.ca/english/press/98/9869-pre.html; News Release 2001-25, *Helping employers attract skilled temporary foreign workers*, 30/11/00 www.cic.gc.ca/english/press/01/0125_pre.html

10 June 2000. Department of Enterprise Trade and Employment (DETE) Press Release 7/5/02 *Tanaiste... announce changes to the Work Visa Scheme*, www.entemp.ie/press02/070502.htm

11 20/5/02. DETE Press Release 7/5/02, *Tanaiste... announce changes to the Work Visa Scheme*, www.entemp.ie/press02/070502.htm

12 Auswaertiges Amt, *Working in Germany*, www.auswaertiges-amt.de/www/en/wilkommen/arbeitsaufnahme/arbeitsaufnahme_html

13 1 August 2000. Auswaertiges Amt, Working in Germany: IT Specialists Programme, www.auswaertiges-amt.de/www/en/wilkommen/arbeitsaufnahme.

14 28/1/02. Home Office, *Scheme gives highly skilled a chance to work in the UK*, www.u.emb.gov.au/CURRENT_AFFAIRS/austlai/HSMP_13/122001.htm

15 1/9/02 www.workpermit.com/news/uk29.htm, 28/8/02. “The UK work permit system is built around moving people into specific jobs... Australia allow[s] certain groups of potential workers...even if there is not a specific job for them to go to... This provides a bigger pool of qualified labour from which to recruit” Institute of Public Policy Research, B. Wells, *Inward Migration of Skilled Labour to the UK*, 2002, www.ippr.org.uk/research/index under Research > Citizenship & Governance Programme > Projects: Migration.

16 From 115,000 to 195,000 in October 2000. Press Release 4/10/00, *Congress Increases Visas for High-Tech Workers*, www.house.gov/shays/press/H1b.htm

migrants were automatically permitted to work in Australia, unlike the more restrictive practices under similar ICT schemes in Canada, Germany, UK and USA.¹⁷

3.10 The Australian scheme was suspended in July 2002 when it became apparent that:

employment growth in the ICT industry had plateaued and unemployment rates among computing professionals had risen significantly.¹⁸

Conclusion

3.11 The Committee concluded that the changes initiated in Australia as well as elsewhere confirmed that, to be competitive, skilled migration programs needed to be sufficiently flexible to identify and capitalise on short-term fluctuations in skills supply and demand.

3.12 The Committee also thought that systematic reviews of skill shortages made government policy making less susceptible to domestic lobby groups.

Program consistency

3.13 The new migration categories created by Germany (*Green Card*), Ireland (*Work Visa*) and UK (*Highly Skilled Migration*), as noted above, were conceived as temporary programs. This contrasted with establishing long-term programs elsewhere which could be altered in detail to meet changing circumstances. Australia and Canada, for example, adopted a process of fast-tracking certain applications, while the USA increased the number of visas.

Conclusion

3.14 The Committee considered that the relative longevity, consistency and predictability of the fundamentals of Australian programs could make them more attractive to potential skilled migrants than more expedient temporary programs elsewhere.

17 DIMIA, Information Resources: *ICT in Focus - Advantages of Australia's Temporary Entry Policies*, www.immi.gov.au/ict/fs08.htm.

18 *Media Release: 64/2002*, www.minister.immi.gov.au/media_releases

Permanent /long term skilled migration

Common approaches

3.15 Australia offered permanent residence status as part of the visa approval process for successful skilled overseas applicants.¹⁹ Those migrants did not have to fulfil further conditions or wait out a qualifying time period. In addition they had the opportunity to become citizens.²⁰ Australia's purpose in encouraging skilled migration was to provide:

migration opportunities for young, highly skilled people who will quickly contribute to the Australian community.²¹

3.16 Canada and New Zealand also offered permanent residence:²²

Canada values skilled immigrants who can effectively compete and succeed in the country's knowledge-based economy... emphasis on... flexible skills...rather than... intended occupation.²³

3.17 This contrasted with the US approach to permanent residence status:

Canada emphasises the government's assessment of individual characteristics, while the US gives weight to a selection of a foreigner to fill a job. The Canadian system... emphasises supply-side or worker characteristics... the US... demand side or employer desires.²⁴

3.18 New Zealand wanted to:

grant residence to people who have skills, experience and relevant job offers to fill employment opportunities that we have identified are necessary for our growth as a nation.²⁵

19 Australia's schemes were: Independent, Employer Nomination, Business Skills, Distinguished Talent and Skilled-Australian Sponsored.

20 Australia's residence requirement is 2 years in the previous 5 years, including for 12 months in the past 2 years. *How to apply for Australian Citizenship*, www.citizenship.gov.au/how.htm#step1.

21 DIMIA, Fact Sheet 25 *Skilled Categories*, www.immi.gov.au/fact/25skilled_categories.htm

22 Canada: 3 year's permanent residence in the previous 4, *How to become a Canadian citizen*, www.cic.gc.ca/english/citizen/howto-e.html; NZ, 3 years: *Requirements for NZ Citizenship*, www.dia.govt.nz/diawebsite.nsf/wpg_URL/Services-Citizenship-Requirements-for-New-Zealand-Citizenship?OpenDocument#one

23 Citizenship and Immigration Canada, Fact Sheet No. 16 *Skilled Workers*, www.cic.gc.ca/english/irpa/fs-skilled.html

24 P. Martin, *Highly Skilled Migration in the 21st Century*, quoted in "Immigration Laws: June 11999 - Number #27" at Australian Visas, www.migrationint.com.au/news/poland/jun_1999-27mn.html

25 New Zealand Immigration Service: *Applying for residence as a skilled migrant*, www.immigration.govt.nz/Migrate/General+Skills+Category.htm

Other approaches

- 3.19 In contrast to these programs, Germany, Ireland, Japan, UK and USA contemplated mainly temporary visas for skilled workers and provide only limited opportunities for their long-term residence:
- **Germany** offered the possibility of an *Unrestricted Residence* permit after five years' temporary residence and a more liberal *Establishment* permit after eight years temporary residence or three years unrestricted residence.²⁶ Draft legislation foreshadowed possible arrangement to permit permanent settlement by some skilled workers.²⁷
 - **Ireland** had an administrative practice of granting "permission to remain without conditions as to time", as opposed to a legal right to remain.²⁸ Citizenship through naturalisation might be sought after a total of five year's residence in the previous nine.²⁹
 - **Japan's** overall visa system was skewed towards temporary residence. Fewer than 1 per cent of the population were foreigners who had been granted permanent residence, and most of these were descendants of Koreans and Chinese brought to Japan prior to or during the Second World War.³⁰
 - The **UK** approached skilled migration from the perspective that:

we need properly managed migration to ensure we have the people we need... not an alternative to developing the skills and employment opportunities of our existing population.³¹

The UK issued work permits valid for up to five years, depending on the duration of the employment offered.³² It was reported not to encourage applications for citizenship.³³ It offered "indefinite leave to remain" after four continuous years on residence permits and this leave to remain might be cancelled if the person subsequently left the UK for more than two years.³⁴

26 K. Groenendijk, *The Legal Status of Third Country Nationals who are Long-Term Residents in a Member State of the European Union*, Nijmegen, 2000, pp 43, 101.

27 To come into effect on 1 January 2003, *Consular and Legal Affairs: German Interior Minister presents modern migration legislation*, www.germanembassyottowa.org/cala/schily.html See para 3.26 below.

28 K. Groenendijk, op cit, pp. 55, 101.

29 Department of Justice, Equality and Law Reform, Publications: Irish Citizenship - Press Release 2/12/99, *Good Friday Agreement: Government publishes amending Citizenship Bill*. www.justice.ie

30 B. Bailey, *Japanese Laws and Policies Concerning Immigration (Including Refugees and Foreign Workers)* 1999, on **United for a Multicultural Japan**, www.tabunka.org/newsletter/index.html

31 Home Office Minister, More short-term foreign workers to help fill recruitment gaps, 29/5/02, www.uk.emb.gov.au/CURRENT_AFFAIRS/british_news/home_office/rooker...

32 Or multiple entry work permits for up to 2 years. Home office - Work Permits (UK) *Employers' Information Guidance notes for employers*...www.workpermits.gov.uk

33 Institute of Public Policy Research, S. Spencer, *Recent Change and Future Prospects in UK Migration Policy*, 2002, www.ippr.org.uk/research/index_under Research > Citizenship & Governance Programme > Projects: Migration

34 K. Groenendijk, op cit, pp. 92, 102.

- USA emphasised temporary (“non-immigrant”) as opposed to permanent (“immigrant”) arrangements, and family and humanitarian categories rather than employment-based migration.³⁵ The USA issued *H1B* temporary (i.e. “non-immigrant”) visas each year to people wishing to work temporarily in skilled occupations.³⁶ Employment-based permanent immigrant visas numbered approximately 140,000 each year.³⁷ The median time taken to process applications to become lawful permanent residents (i.e. gain a *Green Card*) and work in the USA was 17 months,³⁸ but could take several years.³⁹ As a result:

the frustrations of the permanent system have led to widespread reliance on non-immigrant visas as a method of bringing and retaining foreign workers in the U.S.⁴⁰

Conclusion

- 3.20 The Committee considered that Australia’s practice of permitting permanent settlement by skilled migrants, although not unique, was a potentially powerful selling point in the international skills market.

Targeted recruiting

- 3.21 Like Australia, the Canadian and New Zealand programs, and the proposed German permanent residence arrangements, used a points system to select skilled permanent migrants. The UK used a points system to select participants for its limited duration *Highly Skilled Migrant* Program only. The main elements of the Australian, Canadian and New Zealand points-based arrangements for permanent migration are summarised below and examined in detail in later chapters.

The points test...

- 3.22 The points systems examined by the Committee had many similar approaches. They required language proficiency and practical work experience. They generally favoured the youthful migrant over the older.

35 P. Martin, *Highly Skilled Asian Workers in the United States*, in OECD, *Migration and the Labour Market in Asia: Recent Trends and Policies*, 2002, p. 65.

36 Press Release 4/10/00, *Congress Increases Visas for High-Tech Workers*, www.house.gov/shays/press/H1b.htm up from 65,000 in 1998, US Department of State, *Tips for U.S. Visas: TEMPORARY WORKERS*, <http://travel.stat.gov/visa/immigrants.html>

37 US Department of State, *Tips for U.S. Visas: IMMIGRANTS*, <http://travel.stat.gov/visa/immigrants.html>

38 Or more, depending on the uptake in other categories. DOLETA, *Foreign Labor Certification Processing Times*, 19/9/02, <http://ows.doleta.gov/foreign/times.asp>

39 DOLETA, *Permanent Labor Certification*, <http://workforcesecurity.doleta.gov/foreign/perm.asp>. Three separate federal agencies may be involved in the process. L. Benson, *The Impact of Administration on Policy implementation: The U.S. Experience*, paper presented to “Nation Skilling” Symposium 23/11/00, p. 3. www.law.usyd.edu.au/nationskilling/papers/benson.doc

40 L. Benson, *The Impact of Administration on Policy implementation: The U.S. Experience*, paper presented to “Nation Skilling” Symposium 23/11/00, p. 9. www.law.usyd.edu.au/nationskilling/papers/benson.doc

3.23 The occupations of intending migrants were not identified as significant selection criteria, but their skills and training were. There was some flexibility on whether the migrants were expected to have a job to go to. All points systems examined, identified, and gave points for, factors which could improve the applicant's ability to settle successfully, such as their spouses' qualifications/education, and in-country work experience.

... and its application

3.24 Although their points systems were similar, Australia, Canada and New Zealand differed in their use of them. The weighting given to skills identified as being needed in the country reflected the different rationales for skilled migration outlined above.

Conclusion

3.25 The Committee concluded that the points system had a number of advantages. It assisted in meeting overall migration policy objectives by articulating the essential characteristics required of migrants and allowing the numbers admitted to be controlled through the simple process of altering the pass mark. Potential migrants benefited because the selection criteria were specified, as was the scoring process. Further the prospective migrant could self-test prior to committing any money, to establish whether they met the essential requirements for migration.

Market responsiveness

3.26 In 2001-2002 Canada, Germany and New Zealand changed their long-term/permanent migration arrangements:

- **Canada** revised its points-based skilled migration arrangements in 2002 to “open up the category to a broader range of applicants”, and introduced a Permanent Resident Card to provide migrants with “secure proof of their status”.⁴¹
- **Germany** proposed a new draft law foreshadowing allowing “highly qualified foreigners... a permanent residence permit immediately” and a points-tested permanent migration system based on skills, qualifications, work experience, etc.⁴²

41 CIC, News Release 2002-18: *Canada's new immigration ...regulations finalised*, www.cic.gc.ca/english/press/02/0218-pre.html

42 3/8/02, was to come into effect on 1 January 2003, *Consular and Legal Affairs: German Interior Minister presents modern migration legislation*, www.germanembassyottawa.org/cala/schily.html but prevented by German Supreme Court Decision. A. Kim, *The German immigration tremor: post-2000 issues & debates*, www.december18.net/web/docpapers/doc566.pdf

- **New Zealand** rewrote its existing skilled points-tested program and changed the function of its points score so that a pass mark entitled a person only to submit an “expression of interest” in migrating. Formerly a pass mark gave, like Australia and Canada, a right to migrate provided the person met health and character checks.

3.27 As with the alterations to short-term migration, these were designed to improve the international competitiveness of the respective countries.

Conclusion

3.28 The Committee noted that even skilled migration programs aimed at permanent migration should have short-term flexibility.

Directed (regional) settlement

3.29 Under the federal systems in Canada, Germany, and the USA, as in Australia, there was provision for varying the migration requirements to meet localised requirements. In Australia, for example, permanent skilled migrants under *State/Territory Nominated Independent* arrangements were not required to have a job to go to.

- Under **Canada’s Provincial Nomination** arrangements, permanent skilled migrants were not assessed against the points test selection factors. Instead the Provinces assessed suitability.⁴³ In addition, there were special arrangements for Quebec.
- **Germany’s** proposed new law “to limit and manage immigration”⁴⁴ was expected to provide that “access to the labour market will be closely aligned to regional requirements and integration capacity”.⁴⁵
- **USA** had adopted the concept of “Regional Center” and set aside a specific number of visas for specific categories of migrants to such areas.⁴⁶

Conclusion

3.30 The Committee observed that other countries made concessions to encourage migration to specific geographic areas.

43 CIC, *Provincial Nomination*, www.cic.gc.ca/english/skilled/provnom/index.html; Canada Gazette Part II Extra Vol. 136, No.9, 24/6/02, p. 234.

44 Migration News, 8/7/02, <http://migration.ucdavis.edu/mn>

45 *Minister Schily presents modern migration legislation draft*, 13/8/01, www.germanembassyottowa.org/cala/schily.html
See also para 3.26 above.

46 Entrepreneur investors: USCIS, *Immigration through investment* www.ins.usdoj.gov/graphics/services/residency/investment.htm. In New Jersey the criteria for such an area is a county or municipality with a population of 20,000 or more and an unemployment rate of 150% of the USA average. www.state.nj.us/njbiz/y_cert_target.shtml.

Australia in the global context

- 3.31 In its comparisons of the overseas schemes outlined above with Australia's, the Committee concluded that the competitiveness of Australia's migration arrangements was enhanced by aspects of the existing skilled migration program which might attract migrants:
- The open and straightforward points system, which made the requirements clear to potential migrants and enabled them to assess their prospects prior to making any major commitments.
 - The consistency over time of the basic requirements and the methods of selecting migrants meant that potential settlers could have some confidence that the selection parameters would not be subject to significant abrupt change.
 - The policy of accepting skilled migrants as permanent settlers without further qualifying arrangements or residence requirements.
- 3.32 An area which was less encouraging to the potential skilled migrant was the scheme's flexibility, as demonstrated by the ability to streamline processing for particular skills and to alter the points test pass mark in response to changing domestic and international skill demands.
- 3.33 Some changes, such as the arrangements for priority processing had not assisted those not so favoured, but neither had they precluded them from proceeding with their applications. However, an increase in the points score could abruptly preclude potential migrants who just a day earlier could have qualified.
- 3.34 The Committee did not dispute that policy imperatives generated such adjustments, and that they were an efficient way of adjusting the program. However, those changes created uncertainty, which could lessen Australia's attractiveness.
- 3.35 Similarly, a two year waiting period for social security payments with "no alternative government support program", and the general unavailability of age and disability pensions for ten years after arrival might discourage some potential migrants.⁴⁷ However, most skilled settlers were aware of that restriction prior to making their application.⁴⁸
- 3.36 The Committee was, however, aware that individuals' migration decisions were not based solely (if at all) on one factor, or indeed, on the content of migration programs. People decided to move because of dissatisfaction

47 DIMIA, *General Skilled Migration* booklet, p. 11. http://dima.cardgate.net/General_Skilled_Migration/1119.pdf

48 54% knew prior to applying, and a further 40% found out on or after applying for a visa, but prior to migrating. DIMIA, Submission No. 25(a), Table 26.

with their home country, or they considered the prospects of a better future, better employment opportunities and the presence of relatives as reasons for migrating to Australia.⁴⁹

Conclusion

- 3.37 In the Committee's view, the myriad factors involved in migration decisions rendered it impossible to objectively measure the importance of one element - Australia's skilled migration policies - in Australia's international competitiveness for skilled migrants.
- 3.38 The positive aspects of the migration program identified above offered only potential advantages in the international competition for skilled labour. This was particularly so in the case of countries which had already adopted similar approaches, such as the points scheme.
- 3.39 The Committee examines Australia's skilled migration arrangements in comparison with others in the following chapters, making recommendations for change in chapters 4, 7, 8 and 9.

49 See Chapter 2 above

