

**DEPARTMENT OF HOME AFFAIRS  
LAUNCH OF THE TRAINING PROGRAMME  
ON THE REFORM OF MIGRATION CONTROL  
REMARKS BY  
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MINISTER OF HOME AFFAIRS  
Pretoria : April 08, 2002**

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I wish to thank the organisers and the many officials attending at very short notice the launch of the training program on the imminent reform of our migration line function. In a few weeks time, the Immigration Bill will be enacted by Parliament. I felt that it was important for me to launch this new process myself to underline its importance and commit all of us to its success. I must stress at the outset that this programme is urgent and is going to be neither easy nor short. We are beginning an arduous process in which we must all participate with a positive enthusiasm and constructive attitudes. I must plead for a change of attitudes and a renewed commitment to transforming what we do. I am no longer a young man, and I know well that at times change is painful and we all like to continue to do things the way we are accustomed to do. We need to understand, accept and fully support the fact that things are going to change and we must not only be ready for it, but also part of it. The change begins here and now and we must drive it towards its success.

Parliament has committed itself to pass the Immigration Bill by May 8. The Bill has been in the making for more than three years, as the White Paper on International Migration was adopted by Cabinet on March 31, 1999. The Bill itself was first published on February 15, 2000. After such a long, controversial and widely publicised process, the public will expect

of us to implement the new legislation the day after its adoption. People will pressurise us to make it come into force and begin acting in accordance with it. Yet we have no program to ensure that this happens. We are in a real crisis. The point of departure this workshop must be the shared realisation that we are in crisis and we must move really fast and with full dedication.

The passing of the Immigration Bill will complete an extremely long process which had its beginnings in this country's first democratic elections of April 27, 1994. The Aliens Control Act, apartheid's last Act, is the last vestige of legislation still in effect still which reflects the policies, orientations and mindsets prevalent before April 27, 1994. The Immigration Bill is the last of those measures in the package of major legislative and administrative reforms necessary to imbue all fields of legislation and administration with the spirit of our democratic Constitution. However, insufficient attention has been given to prepare for the implementation of the Bill and the Department now, therefore, finds itself facing a crisis situation and indeed an emergency.

This workshop will focus on the Immigration Bill, and will have the purpose of giving a first and general understanding of the features and characteristics of the reform of this line function. This will be the first of several subsequent stages which we must undertake as promptly and expeditiously as possible. We need to finalise the drafting of the regulations in the next few weeks, and once officials in the Department are more familiar with the features and characteristics of the Bill, they will be in a position to make inputs and receive training on their implications. After the training on the regulations we will need to undertake

training on the new forms and procedures which will be developed to complete the system. However, law regulations, forms and procedures are not all that will need to change. As I will discuss at a later stage of my address, we will need to re-aggregate the various offices of our Department and restructure the entire line function to reflect a new way of operating and new demands and challenges.

The framework of the Bill is not that dissimilar to the one which was published and distributed to some of our officials as early as October 1999, except that the notion of migration control being embodied in a distinct statutory body known as the Immigration Service has been expunged on the basis of Cabinet resolutions. Since then, all subsequent versions of the Bill, including, various amendments and refinements, have been constantly published on our Department's web site and I hope that each of you has an at least rudimentary knowledge of it.

This enables me to present you a broader policy perspective on the Bill, which is necessary to clarify the new type of relationship between the function of migration control and other line functions it establishes, I also wish to highlight the comprehensive nature of the reforms that the Bill introduces and the extensive overhaul of migration control policy that it initiates.

As you all know, migration control relates to the determination of the conditions under which foreigners may enter and sojourn in the Republic, either temporarily or permanently, or may become citizens. Only partially, does it set forth the conditions of what foreigners

may or may not do within the Republic, and often does so as marginal exceptions to the general policies formulated by other departments. For instance, migration control may set the policy that foreigners may not work in the Republic unless specifically authorised to do so. When in the Republic, foreigners will conduct activities of work, tourism, education, business, investment and medical treatment. However, it is not the function of migration control to develop any policies in labour matters, education, tourism, and trade and industry.

The Bill has been drafted to ensure that migration control has a minimal impact on the formulation of policies which are the prerogatives of other departments. In the past, during the apartheid era, our Department of Home Affairs had strong and highly discretionary powers and the latitude to formulate significant policy aspects of tourism, labour, and investment through the exercise of its migration control functions. The new Bill now establishes a professional line function which operates on the basis of simple and objective criteria which are limited to the issuing of permits for foreign workers, foreign tourists, foreign investors and foreign businessmen and visitors.

The Bill ensures that foreign workers are employed in South Africa on the same terms and conditions applicable to our nationals. However, it is not the purpose of migration control to determine what such terms and conditions ought to be. The Bill seeks to reach beneath the level at which policy formulation takes place in respect of matters which may be affected by the presence of foreigners in South Africa. Obviously a perfect separation is not possible. For instance, provision is made that student visas be made available for

foreigners who are enrolled in institutions of learning within the Republic. However, the criteria for their admission into public institutions of learning will need to be determined by the Department of Education, which will also establish whether foreign students should have the same access as our nationals, or if a quota should be reserved for them. This decision will be made within the capacity of the educational resources of the country. The migration control function may, however, assist in the recovery of the value of public subsidies in the education of each foreign student if the Department of Education chooses to pursue this policy option. Therefore, the Bill makes provision for this eventuality. The same applies in respect of the medical treatment of foreigners in public facilities, thereby registering that South Africa is becoming an increasingly more attractive destination for foreigners seeking hospital services.

Having outlined what the function of migration control does not encompass, one must focus attention on what migration control is all about. Many of you are familiar with this matter, but it is important that at the outset of this training programme we re-focus our attention on it. Migration control relates to the determination of the conditions under which foreigners may enter and sojourn in the Republic, either temporarily or permanently, or in terms of which they may become citizens. The main tasks of migration control are threefold. First there is the issuing of permanent and temporary residence permits to foreigners who qualify for them. Second, there is the detection and removal of foreigners who are illegally within the Republic. Incidental to this last mentioned function are the tasks of deterring illegal immigration, investigating its general causes as well as specific cases. Third of all, migration control must deal with undesirable social phenomena

associated with the presence of foreigners in the country, amongst which is the prevention and the redress of xenophobia. Additional social problems to be dealt with relate to the cultural adjustment of foreigners and interim services they may require in the process of their relocation. In the past we did not deal with all such three tasks. The Bill provides for these three tasks.

In the past, the bulk of resources and administrative attention of migration control has been concentrated on the first task, namely the processing of permits in respect of those foreigners who are in the system. Limited resources have been available for the second task and illegal foreigners have been dealt with only when identified as a consequence of their breaching their conditions of permit or following their arrest by the police. Little if any real capacity has existed for actual law enforcement, especially in respect of the large number of illegal foreigners who never became part of the system because they crossed into South Africa other than at points of entry and were never registered in the system by being issued with a permit.

Finally, no capacity or resources have been directed to the achievement of the third task, which is that of dealing with the social problems associated with illegal aliens, of which xenophobia is just one. Therefore, the Bill requires that the nature of migration control change, and assume different tasks. To this end, the Bill takes cognizance of the fact that migration control is presently under-funded and is likely to remain under-funded in the future. Throughout the world, very limited budgetary resources are allocated to migration control. Therefore, the implementation of the Bill will result in a more rational allocation of



available resources amongst the aforesaid tasks.

The Bill also seeks to apply the important principle of service delivery within the field of migration control. To this end, it identifies three categories of recipients of its services, namely the foreigners to whom permits must be issued, the nationals who wish permits to be issued to such foreigners (such as their employers, family members, business associates or tourist establishments), and, as the third category, the public at large which benefits from the presence of foreigners in the country and wishes to regulate the presence of illegal foreigners. The role of migration control is, therefore, to issue permits as quickly, efficiently and objectively as possible and to deal with those who do not respect the conditions of those permits.

Accordingly, the new migration control function will simplify the issuing of permits based on objective and simple criteria, the purpose of which is a system of permit issuing which can be administered without the need for time-consuming discretionary assessments and consultations with other organs of the State or entities, and can be performed by the officials concerned without the need for a very high degree of training and specialisation. Our aim is to develop a system in which officials can review an application based on its completeness, and issue a permit on the basis of the documentation on file. Simply put, the official will need to check whether all the documents required by law and regulations are part of the application, and whether their contents fit that set forth in standard forms.

Therefore, the application review process will be fast, objective and predictable, thereby achieving the goal of improvement of service delivery. Moreover, this approach will free administrative capacity presently locked into the processing of permit applications. This additional capacity will then be employed for the other two tasks of migration control. This approach also provides the backdrop for an important aspect of migration control reform given effect to in the Bill. Having simplified permit procedures, it becomes possible to decentralise migration control.

We need to begin visualizing a new type of Department of Home Affairs. Our regional offices will be the engines of delivery where all the work will be done and our head offices will deal with three types of functions, and not with actual cases and applications. The first function will be that of controlling regional offices, monitoring uniform application of policies and procedures, training, assisting and constantly building capacity. This will also include assistance in legal matters. Effectively, we are centralising auxiliary assistance and co-ordination services, while decentralising delivery. The second function will be that of developing policies, including formulating and updating regulations, which including building up the capacity of studying issues collecting data and researching policy matters. The third function will be that of liaising with, and running programmes in, foreign countries to deal with the issue of illegal foreigners at its point of origin, including programmes to deter people from coming to South Africa or facilitate repatriation.

In this context, our regional offices will be conducting all the delivery work. It is likely that they also will need to be profoundly restructured. For instance, they will need to conduct



all the permanent residence work presently entrusted into the Immigrants Selection Boards. The Bill provides for permitting procedures which mostly do not call for complex evaluations and assessments. However, evaluations and assessments cannot be eliminated completely. Therefore, some of the permits will continue to require evaluations and adjudication. In light of this, it is possible to envisage that regional offices will reorganise around four main types of activities. The first will be the issuing of such permits which do not call for adjudication or evaluations. The second will deal with permits requiring evaluation and adjudication and, obviously, this section will require greater capacity and more training and skills than the first one. The third section will need to deal with law enforcement as a separate activity planned and coordinated on the basis of its own priorities.

The fourth section will need to deal with the fight against xenophobia and the requirement of internal auditing called for by the Bill, together with efforts to avoid internal corruption. I will discuss these matters later in greater detail. It is important that this image of the internal restructuring called by the ongoing reform of migration control is kept in mind. This perspective also accounts will also enable my colleagues to better understand the concerns I often expressed about some proposals for the restructuring of the Department which moved in an opposite direction. These changes are going to be complex and often painful. It is possible that we will need to acquire external expertise to bring them about, such as the consultancy of firms which specialise in major corporate restructuring. However, we need to go to this effort to prepare the Department which may accommodate the increasing demands of the future.

The economic and social success of South Africa will have dramatic ramifications for migration control in the form of increased work permit applications, massive influx of tourists and businessmen and demands from people seeking to settle in South Africa permanently. This additional workload cannot be managed within the structures in place at present. This accounts for the fact that migration control function will primarily be exercised by regional offices, while head office will be the centre where the activities of regional offices will be co-ordinated, training will take place and policies will be developed. At present a great deal of head office capacity is employed in the processing of permits. In the future, head office will not be processing permits, but will review the permit processing system, develop all the relevant policies and manage the entire system of migration control.

In the same way, enforcement activities will take place at the regional level and will be similarly coordinated from the viewpoint of management, training and supervision from head office. Regional offices will be both within the Republic and abroad. In this context, it will be possible to issue permits in foreign regional offices such as those presently located in London and Berlin. With the system functioning properly, and effectively managed and supervised, it will be feasible to remove some of the administrative measures put in place to address present administrative shortfalls, such as the requirement that permit applications be lodged from outside the country and that applicants in these cases remain abroad waiting for the outcome of their application. The Bill makes it possible to adjust status from within the Republic, which means that a foreigner who is legally within the Republic may apply for a different permit. A tourist may,

for instance, apply for a work permit. These are major changes for which we must prepare.

Decentralisation at regional level also serves the purpose of ensuring the greater accountability of those who make decisions on individual cases, so that they will be held to account for their administrative actions if they are erroneous and become the immediate respondents of both administrative and legal challenges brought against their decisions. This applies both to the issuing of permits as well as action taken in pursuance of law enforcement, such as deportations. The Bill places a new emphasis on the task of enforcing immigration laws. The Bill espouses the notion of having immigration officers working within communities, thereby moving capacity out of offices and away from paperwork to place it at grassroots level. We need to visualise the future of migration control and the presence of foreigners within South African borders in the 21<sup>st</sup> century that will be characterised by the ease of movement of people between countries and large circulations of foreigners for purposes which can no longer be classified on the basis of rigid categories.

A country such as South Africa will attract a large number of foreigners who will often be in the Republic for various concurrent purposes, such as tourism and business, or tourism and research, or sabbaticals, or as pensioners to retire. In the future we will see an increase in the number of foreigners in communities, which will become increasingly more cosmopolitan. With this reality in mind, the Bill focuses not so much on the foreigners themselves, but rather on their activities within the Republic. The efforts of law

enforcement task is thereby directed away from the foreigners and their physical presence in the country, and is placed on their activities.

Therefore, it is not the presence of foreigners *per se* which will ever form the object of investigation and law enforcement by migration control, because it is impossible to operate on that basis. There is no issue of stopping people in the street who are suspected to be foreigners. It may happen on occasion and, surely, migration must have the power to do so, because it is necessary to the exercise of its functions where the real focus is placed. But the future of law enforcement places the focus of enforcement elsewhere. The activities of foreigners are monitored where it counts, namely in workplaces, learning institutions and at the interface between government and its citizenry. All this require our improving on our skills and growing our professionalism. For instance, inspecting workplaces is more than merely asking workers to produce id document and may involve reviewing corporate records to determine how much foreigners are actually paid and whether their tasks conform to their job descriptions.

Also, in terms of the Bill our Department will need to ensure that, in a climate where the presence of foreigners in South Africa will be less regulated, the activities of foreigners can be adequately regulated and the regulations enforced. Therefore, migration needs to develop the capacity to routinely inspect workplaces as well as communities. In doing so, it may request communities to cooperate with its activities as much as any other law enforcement agency would require the public to provide information. These efforts are balanced by the separate task which the Bill requires migration to undertake, which is that

of educating the public and preventing any instance of xenophobia.

Another important aspect of the new system of migration control is the need to acknowledge that South Africa is moving towards a human rights culture shaped by one of the most democratic constitutions in the world, which applies equally to nationals and foreigners within the Republic. One of the main transformations of migration in the future is centred around the requirement of motivating the decisions taken and providing a full opportunity for judicial review, during which the rights and the liberty of those affected, especially foreigners, are respected, on the basis of a judicialised process which, *inter alia*, relies on court warrants.

This is an enormous transformation from the present situation and puts migration control in a completely new dimension which requires an enormous amount of additional resources. Simply put, compliance with the requirements of advanced human rights protection requires greater capacity, more resources and more training. It would be almost impossible and hardly conceivable for this process to take place through a general system of courts.

For this reason, the Bill proposes the establishment of Immigration Courts which, even if only for descriptive purposes, one might wish to equate with traffic courts, insofar as immigration officials will be specially trained to appear and present their cases, thereby minimising the need for prosecution. Judges will be specialised, and one would expect cases to be heard in a fast and routine fashion, while providing the full measure of

competent judicial attention.

I must stress that in terms of the Bill the Minister of Justice has the total discretion on whether, when and how to establish such courts, including the possibility of a geographically staggered and phased-in approach. Therefore, the Bill's provision for Immigration Courts is an enabling provision which will be implemented when and how the Minister of Justice sees fit. As separate courts, Immigration Courts do not duplicate the required judicial and administrative capacity which, in the final analysis is dictated by the number of cases to be heard, court room space required, and work hours on the side of judges and prosecutors. These factors remain constant and are not duplicated, while specialisation reduces the extent to which these factors come into the equation.

The final aspect of law enforcement and migration relates to border control. In the Bill there is no suggestion that border control should in any way be lessened. On the contrary, the Bill calls for the tightening of border control by means of specialised and professional activities under the control of the Department of Home Affairs but conducted on an interdepartmental basis and drawing from the resources and contributions of all relevant line functions. This will finally create the long sought after coordination of the many line functions which directly or indirectly carry out responsibilities in respect of border control or at the points of entry. As a Department we have been looking for a long time at having some form of integration of functions and the points of entry, and finally, this Bill will give us the responsibility to be the leading Department. I must stress that border control is much more than manning and administering points of entry. Border control begins where points of entry end. Also in this respect, we are now considering a long-term vision which



will progressively, albeit slowly, come to pass as the Defence Force and the Police Services transfer to us equipment and personnel required to control the borders to prevent illegal entry.

It must be restated that more efficient and better coordinated border control by itself cannot be the only solution to the problem of illegal foreigners in the country and that, by itself, it will remain ineffective. However, it can also not be neglected. Border control must change drastically. Nowadays, borders are no longer controlled to repel an invading army, and the main concern of border control is about preventing cross-border illegal activities, ensuring the payment of tariff duties on entering goods, and regulating the access of foreigners for purposes of migration control. These are not functions which can be performed by the defence forces, nor do they require the full range of investigative and policing capacity of the police service, which are the two security services presently mandated to perform border control. Therefore, future border control will need to rely on specialised investigative capacity which justifies the policies set out in the Bill. We need to rise up to the challenge of fulfilling this task in the long-term and

The other relevant policy consideration centres around the need to provide our economy with the skills and qualifications it needs to grow. This consideration registers the fact that all countries are competing for skilled people. For instance, Germany has launched a programme to acquire tens of thousands of foreign computer experts who will be allowed to work in that country in an environment in which conditions for work permits and permanent residence have been greatly relaxed. Therefore, in this context, South Africa

competes with some of the most advanced countries, without being able to provide many of the benefits such countries offer, which requires our making it even easier for foreigners to receive work permits.

A further consideration is that of compensating the brain drain to which South Africa is subject with a brain gain, so as to enrich South Africa's human resource pool. When considering these issues we were faced with a broad variety of options relating to these considerations, and had to engage in a broad analysis of comparative experiences, the several aspects of which could obviously not be set out extensively in the few pages in which our policy documentation had to be contained. In the end, the White Paper on International Migration approved by Cabinet on March 31, 1999 created a necessary tie between work permits and the training of our nationals through the establishment of a permit fee intended to be applied towards the training of our nationals. This approach has been maintained in the Bill.

In order to fully understand the value of this innovative proposal, one may need to consider its alternatives. The key question that one needs to ask is how one identifies the type of foreigners which South Africa as a whole may like, need, or prefer to have working in South Africa. The Bill develops new and innovative solutions to foster economic growth and satisfy the needs that our businesses may have for the acquisition of foreign human capital and skills. From a business viewpoint, there are two major facets to the relevance of migration control. The first relates to the acquisition of foreign workers within an established business in South Africa. The second relates to the establishment of a foreign

business in South Africa, and includes intra-company transfers, key personnel and investor's permits. The difficulty is that, in reality, these two categories are on a continuum which blurs the differentiating lines.

Similarly, foreigners may come to South Africa to either work or conduct business, and while there may be clarity at the two extremes of this spectrum of employees and businessmen, there are many grey areas in between. The most difficult aspect of reducing the simple reality of people coming from abroad to conduct productive activities in South Africa into legal classifications and differentiations was raised by the issue of skills.

There was a strong temptation that government should do exactly that; that we should classify all the possible skills into various groups or categories and determine how many of each group we need at any given time and for each sector of industry. Those who wish to employ foreigners would need to apply against such skills and needs auditing. This system would leave unsolved the issue of whether a foreigner is actually needed in a specific industry, even when his skills belong to a category for which the generic need was assessed.

The fact is that, in the real world we live in, it is impossible to classify skills and match them with qualifications. One can only read skills through qualifications and determine that if someone has an engineering degree, he has the skills of an engineer. We are ill-equipped to assess experience, training and curricula vitae. In the present market place, qualifications no longer match skills and skills no longer match positions. Engineers may

make good managers. Moreover, the link between skills and qualifications has been irreparably broken. For instance, South Africa desperately needs computer specialists such as web designers, web site managers and developers and programmers, most of whom have precious skills reflected in no documentable qualification such as a certificate or diploma.

In the end, the employer is best qualified to determine whether an employee has the skills and qualifications required to perform certain tasks. Obviously, this statement does not detract from the need of ensuring that those performing any given task have qualifications which are certified by our Qualification Authority as valid to perform such task, as in the case of medical doctors or engineers. The legal requirements relating to the exercise of any given activity or profession remain unaltered.

A final problem when dealing with skills is how to determine how much skill a person needs to have to be the type of person we need in our country. There might be agreement that a brain surgeon is sufficiently skilled, and yet we need people who can operate a certain type of water pump or tractor. Conversely, we may not need trained astronauts, as we have no space programme. There are strong segments of industry which also suggest that we need entrepreneurial skills and this seems to be supported by the large number of successful small and micro businesses started in this country by foreigners, many of whom are not legal yet may be providing an appreciable contribution in macroeconomic terms. Government cannot determine how much skill is enough to cross the threshold of needed skills.

The new system of migration control envisaged in the Immigration Bill relies on employers to determine whether any given foreigner is required for their business. Having crossed such important policy threshold, it is imperative that we maintain a connection with and satisfy two other important and possibly conflicting policies. The first is that of ensuring that government maintains control of the process. Relying exclusively on an employer's statement that the foreigner is needed does not satisfy such a requirement, nor can government be expected to conduct an investigation in respect of the accuracy of each statement so rendered, which would lead us back to cumbersome, discretionary and lengthy procedures. The second policy consideration has always been that of maintaining a connection between the employment of foreigners and the training of our South Africans.

For this reason, the Bill gives effect to the mechanism of a licensing fee for foreigners as the means to determine whether a foreigner has skills which are indeed needed in any given business. If someone is willing to pay a higher premium to employ a foreigner than he would to employ a South African, then that foreigner is needed. The licensing fee avoids having to determine the length for which a permit should be issued, because obviously a person is needed for as long as the employer is willing to pay such premium. This system moreover maintains the policy tie between brain gain and brain train which is entrenched in our debate. In fact, it is understood that this licensing fee will be directed to the training fund already established by the Department of Labour to train South Africans. Thus we maintain a connection between foreigners working in South Africa and the training of our nationals.

From a practical viewpoint, an employer need to pay the periodic licensing fee, which is an additional return, and to certify that a foreigner works at terms and conditions which are not inferior to those applicable to a South African. This latter certification will be conducted on a routine basis by the employer's accountant, indicating that the foreigner is not paid less than a South African in the same workplace or in a comparable one. When we introduced this system, the business community raised a number of concerns which the Bill acknowledges and which led to several exceptions to the licensing fee.

I have gone to this great length in labouring this point to give the background of how much our activities in respect of work permits will be simplified. Simply put, officials will need to verify whether the permit application is complete in terms of required information, the accountant had provided the required certification and the employer has paid the prescribed licensing fee. All the other evaluation issues relating to whether we need the specific foreigner are no longer the concerns of the official who reviews the application, They become our concern at head office, not in respect of the single application, but as an aggregate function. We will need to determine whether our need for foreign engineers is so high that the licensing fee would be very low, or whether, conversely, our need for foreign street sweepers is so low that the licensing fee on them should be very high. If, even with a very high licence fee someone wishes to fulfil the extravagant desire to employ a foreign street sweeper, for as long as all the documentation in the application is in order, it will not be our business to question it, as we can use the licensing fee to train our nationals and promote their social conditions.



The licensing fee will not apply in respect of corporate permits, which can be negotiated by any large company or organisation directly with the Department enabling it to issue a certain pre-agreed number of permits directly from its human resources offices. This is a unique system and will add introduce greater flexibility in meeting the needs of South African industry and foreign investors alike. The system also enables a corporate permit-holder to shift work permits between different foreigners without having first to receive approval from the Department. Obviously work permits will be issued only once the Department has certified that each application meets all the relevant requirements, including police clearance and other additional information which is part of the constituting elements which our regulations will prescribe for any and all applications.

The licensing fee will also not be applicable to intra-company transfers, to work permits for people of exceptional skills and qualifications, in respect of people with certain skills within a class which government may determine from time to time and in respect of the renewal of existing permits. It will also not apply in respect of foreign investments or entire segments of industry where requested by the Departments of Trade and Industry or Minerals and Energy. The latter case is intended to address marginal and highly labour-intensive industry which relies on foreign labour for its survival, such as certain segments of the mining industry.

In terms of the Bill many existing type of permits have been collapsed into one. Namely the general entry permit which will group together a number of activities which are often difficult to distinguish from each other. The permit will apply to tourists, businessmen,

students enrolled in courses shorter than three months and those receiving medical treatment of shorter than three months. This innovation will simplify enormously the work which we now perform in processing the variety of permits and differentiated situations which are contemplated in our migration code.

An important aspect of the new system of migration control that the Bill establishes is the involvement of stakeholders in the actual definition of the details of the system. The finer features of the system will, to a great extent, depend on the regulations. For instance, it is the regulations which will determine the amount of the licensing fee and obviously it will make a difference whether such licensing fee is higher or lower, or is uniform across the board rather than being differentiated for each category of industry, possibly across the divides of the Sectoral Education and Training Authorities. Similarly, the entire system of investors permits will vary substantially on the amount of prescribed investment which qualifies an investor for a permit.

The Bill has made provision for these critical decisions to be made by the Immigration Board in which both government and stakeholders of civil society are represented. In terms of the Bill, Government has control of the Board, but the inputs of civil society within it will have been powerful. In the original version of the Bill, the Board had an executive function. However, during the process of review of the Bill by Cabinet it was then decided that these critical decisions need to remain within the prerogative of the Minister and that the Immigration Board, rather than having a decision making power, would only serve in an advisory capacity. However, the Bill preserves the guarantee that the regulations can

be stricken down by a court of law when they are found to be arbitrary and capricious in respect of the inputs received from the public and stakeholders, which will give great weight to the recommendations of the Board.

The Board is a crucial element in the structure of the Bill. Migration control is a function which relies heavily on interdepartmental coordination and calls for a continuing process of policy formulation. The needs of the country change and so do our perceptions, and from time to time it is necessary to determine how ajar the migration door should be kept. These types of decisions cannot be entrenched once and forever in the law and will take place through the regulations. However, these regulations require extensive interdepartmental inputs and therefore, must be the product of a body which causes various departments to work together. By including a large number of representatives of civil society the Board will also ensure that policy formulations continue to receive the necessary inputs of all stakeholders and role players. All this means that our head office will need to become a centre where people work together, think, plan and execute the policies of the future, together with the rest of our society. I think that this will make it a very exciting place to be and our work will become increasingly challenging and rewarding.

It must be appreciated that the enactment of the Immigration Bill will be the beginning of a lengthy process through which the reform of migration control will must come about. I have been involved in this process since 1995 and I have carried on my shoulders since then. I have been involved in the drafting of the policy papers and in all the cabinet discussions and in all the stages of the formulations of this new legislation. None of you

will ever an idea of how much I have had to endure, suffer and forgive to make this happen. The very fact that today I am before you providing the initial training of this bill in such a lengthy presentation should show the full measure I have gone to make this possible. It has been a long process and yet we are at the beginning of a new one. We have to change our regulations, adjust our application forms and other documentation, restructure our Department and conduct extensive programmes of re-training. This stage will be your responsibility. I will continue to be involved but I trust that you will henceforth take the Department forward to fulfil the mandate we have received from Parliament and the expectations of the people of South Africa. There is a great opportunity ahead of us and I have that we will all seize it with the enthusiasm it believes. I plead for a change of mindset and pray the God Almighty that he may assist all of us as we move forward in this difficult but exciting process.

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# FAX COVER SHEET

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