



MEDIA STATEMENT

Senator Amanda Vanstone

Minister for Immigration and Multicultural and Indigenous Affairs
Minister Assisting the Prime Minister for Reconciliation

13 November 2003

Update On The Minasa Bone

Please find attached a letter to Senator Vanstone from the People Smuggling Task Force that provides further information on the operation involving the *Minasa Bone*.

Minister's media contact: Damon Hunt 0419 691 944



**DEPARTMENT OF IMMIGRATION AND MULTICULTURAL
AND INDIGENOUS AFFAIRS**

Deputy Secretary

Senator the Hon Amanda Vanstone
Minister for Immigration and Multicultural and Indigenous Affairs
Parliament House
CANBERRA ACT 2600

Dear Minister

You have asked for an explanation from the People Smuggling Task Force (PSTF) about the inclusion in your 9 November joint press release with Minister Downer of a statement that the people on the Minasa Bone "did not claim asylum in Australia".

The statement in the joint press release that no asylum claims were made was inserted by the PSTF on the basis of the information available to it at the time. I should stress at the outset that during the period 4 November to 10 November inclusive reports given to the PSTF from various agencies that engaged with the vessel gave no indication that asylum claims had been made by the individuals on board the vessel.

As you know the Government acted to excise Melville Island from the Migration Zone so as to prevent the people on board the vessel from making a valid protection visa application in Australia. Once Melville Island was excised effective from the beginning of the day the vessel arrived there was no possible way for the people to make a valid application for a protection visa under the Migration Act and Regulations.

The NT Supreme Court dismissed the habeas corpus action brought in relation to the persons on the Minasa Bone by the NT Legal Aid Commission on the evening of Friday 7 November.

From the point at which excision was confirmed a key concern of the PSTF was to ensure that any arrangements made for dealing with the people included providing an effective mechanism that would allow any asylum claims that they may have had to be properly considered. Accordingly, and consistent with the Government's long standing policy of seeking offshore processing arrangements, the PSTF's actions were focussed on the options, where possible, of utilising either the regional



cooperation arrangements in place in Indonesia or processing at one of the offshore processing centres. In either case the PSTF would be satisfied that Australia's obligations under the 1951 Refugees Convention could be met and that the individuals would have an opportunity for any asylum claims to be considered. In the event, as you know, the vessel was returned to Indonesia.

Against the background of media reports that the individuals had made asylum claims, you requested me to confirm the statements in the press release of 9 November. On 11 November I asked all agencies that may have engaged with the people on board the vessel (Customs, DIMIA, Defence and AFP) to provide me with written advice as to whether any Australian officials, including ships' interpreters etc who came in contact with the passengers is aware of any claims for asylum, any claims to be a refugee and any comments as to why they wanted to come to Australia. Written advice from each of the agencies was provided to me on the afternoon of 11 November.

As a result of that written advice I can advise that the people on board the Minasa Bone did make a range of comments about why they wanted to come to Australia. This advice was first collated as a consequence of my request of 11 November and was not previously made available to the PSTF in either oral or written form. I believe it is important to acknowledge that there are practical difficulties in an operation of this kind that inevitably lead to some delays in conducting interviews, recording information and forwarding reports to the PSTF.

The Department of Defence has provided advice that the unauthorised arrivals did state at various times that:

- (1) "we are from Turkey, don't want to go back, no good. We want to go to Australia"
- (2) one unauthorised arrival indicated the word "refugee" in an English/Turkish dictionary
- (3) they claimed to be Kurdish refugees and that they wanted to go to Australia as Turkey "was no good"

The Australian Federal Police (AFP), in conjunction with DIMIA, conducted intelligence and evidence gathering interviews with some of the unauthorised arrivals whilst the vessel was located approximately 25 nautical miles north of Melville Island in international waters. These interviews were conducted on 6 November. In answer to questions "why have you come to Australia" and "what were you told would happen on your arrival" a range of answers were provided. Typical answers of the 6 people who were interviewed included "to become an Australian citizen", references to Kurdish nationality and difficulties of living in Turkey. I should note that the AFP has asked that no precise details of these interviews be released on the basis that it might prejudice possible future prosecutions, may breach provisions of privacy legislation and is contrary to a long standing convention regarding public release of evidence provided by witnesses.

The Australian Customs Service advised that none of their personnel made contact with any of the people on board the vessel.

I should stress that the kind of comments we have now been advised of by Defence personnel and the AFP interview team who were in company with a DIMIA official, usually lead to a more in-depth interview with each individual to determine the substance of what is behind the words each has used and whether the person therefore should be given an opportunity to present full claims. Such a process was not pursued in these circumstances because arrangements were being made by the PSTF to provide that opportunity through either the regional cooperation arrangements or offshore processing. That action started from the time Melville Island was effectively excised.

In summary:

1. the people did not make a valid application for protection in Australia in the terms set out in the Migration Act and Regulations
2. the people could not make a valid protection visa application in Australia under the Migration Act because Melville Island had been excised
3. the kind of comments now known to have been made by some of the individuals usually lead to a process to establish the credibility of the claims under the Convention
4. the regional cooperation arrangements or offshore processing provide the opportunity for asylum claims to be presented.

Accordingly, the statement in the media release that the people did not make asylum claims was made on the basis of the full information that the PSTF had available at the time. With the benefit of hindsight the PSTF accepts that the statement should not have been included in the media release. The PSTF is equally of the view that it had no bearing on the way in which the vessel was handled.



Ed Killesteyn
Chair
People Smuggling Task Force

13/11/03