

12 September 2008

Mr. Sam Witten  
Acting Assistant Secretary of State  
Bureau of Population, Refugees, and Migration  
U.S. Department of State  
2201 C Street, NW  
Washington, D.C. 20520

**Via fax: 202-647-8162**

Dear Mr. Witten,

As we prepare for the upcoming UNHCR September Standing Committee and October Executive Committee meetings, the members of Refugee Council USA would like to bring to your attention several issues of concern which we will be raising at the meetings. We hope that you and your colleagues may take some of these issues into consideration in your upcoming discussions with UNHCR, other international organizations, and in some of your bilateral meetings with various governments. We would like to request that this letter be included in the official U.S. Government briefing book or materials prepared in advance of the Executive Committee meeting for members of the delegation.

### **Executive Committee Conclusions**

We read with interest the lengthy document that emanated from the Conclusions discussion process. It is not clear to us what the next steps will be in adopting some of the recommendations; however, we would like to again express our support for a multi-year menu of possible thematic Conclusions to be taken up over the course of three to four years. Such an approach would be helpful in garnering better preparation, involvement, and support from states, UNHCR, and NGOs.

We support all of the proposed thematic areas for possible Conclusions. In regards to self-reliance, we would like PRM to encourage its fellow members of the Executive Committee to ensure that a rights-based Conclusion on Self-Reliance with equitable international responsibility sharing remains one of the possible areas of consideration. ExCom's guidance on this important topic is long overdue and unfinished business from the Agenda for Protection. It is important for PRM to show its support especially for this theme and to reach out to host country members and show our good faith in supporting integrative modes of assistance as an alternative to forced encampment and exclusion from the labor market. We feel strongly that self-reliance warrants the attention of the Executive Committee in the near future.

### **NGO Participation in EXCOM**

RCUSA strongly urges that both ICVA members and those NGOs with ECOSOC status should be able to attend with observer status the Executive Committee meetings. We call on PRM to support this position in the upcoming meetings on this topic.

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#### Members:

American Refugee  
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Amnesty International USA  
Arab American and  
Chaldean Council  
Center for Victims of Torture  
Chaldean Federation  
of America  
Church World Service/  
Immigration & Refugee  
Program  
Episcopal Migration Ministries  
Ethiopian Community  
Development Council  
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Commission  
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Committee  
Jesuit Refugee Service/USA  
Jubilee Campaign USA  
Kurdish Human Rights Watch  
Lutheran Immigration  
& Refugee Service  
MAPENDO International Inc.  
Southeast Asia Resource  
Action Center  
U.S. Conference of Catholic  
Bishops/Migration & Refugee  
Services  
U.S. Committee for Refugees  
and Immigrants  
Women's Commission for  
Refugee Women & Children  
World Relief

### **Best Interest Determination Guidelines**

We welcome the release of the UNHCR Guidelines for the Formal Determination of Best Interests (BIDs) and the pivotal role the U.S. Government has played in supporting the implementation of a global approach to the protection of unaccompanied and separated children. Still, there is a great deal to be done. We are particularly aware of the resource shortfalls that can limit the ability of UNHCR to effectively carry out these guidelines. We urge UNHCR to prioritize BIDs in protracted refugee situations and to make every effort to ensure that BIDs can be completed in advance of all UNHCR-organized refugee movements (repatriation, resettlement or camp relocations) so that unaccompanied and separated children are not left behind. We urge UNHCR to request sufficient resources to ensure full implementation of the BIDs process. We call on all states and especially PRM to provide adequate resources for this process.

### **Urban Refugee Policy**

NGOs appreciated the opportunity to provide comments to the draft urban refugee policy. While we have not yet seen a revised draft, we anticipate one soon from UNHCR. This is a critical and long overdue policy. Once the policy is passed in the very near future, we look forward to UNHCR providing operational guidance as well. We seek PRM's support for this guidance.

### **Terrorism-Related Inadmissibility Grounds (TRIG)**

Some relief has been provided by the implementation of parts of the *Consolidated Appropriations Act of 2008* that sought to reduce some of the negative impacts TRIG has had on the U.S. refugee resettlement program. Still, much more needs to be done. In the meantime the U.S. Government needs to engage in greater and more systemic outreach campaigns with UNHCR and NGOs to ensure that field offices are aware of the new administrative exemption authorities as well as the time lines for exercising additional exemption authority for some 40 groups. We continue to strongly urge the U.S. to quickly issue all necessary guidance and exemption authority so that the fixes offered by the recent legislation can actually be implemented to their fullest.

### **Africa**

***Sudan and Chad:*** In the absence of peacekeeping forces in Darfur, RCUSA members continue to be concerned about the protection of Sudanese refugees and the internally displaced in Darfur and eastern Chad. Several attempts have been made to begin an evaluation and resettlement process from Chad, but have been postponed due to ongoing insecurity and internal UNHCR bureaucratic hurdles. NGOs on the ground are ready to begin the identification and referral process as soon as UNHCR puts the process in motion. The transfer of refugees away from dangerous areas on the Chad-Sudan border needs to be backed up by a resettlement program for those who remain in danger and for whom resettlement is an appropriate solution.

***Zimbabwe and South Africa:*** In light of the political violence in Zimbabwe and recent attacks on foreigners in South Africa, RCUSA again urges adequate protection for the targets of the attacks in both countries. Many are fleeing Zimbabwe to escape danger due to their political opinion, and significant numbers of those who arrive in South Africa are bona fide refugees in need of protection in South Africa. Resistance to refugee protection appears to be increasing in South Africa, limiting an opportunity for first asylum for those fleeing the political violence in Zimbabwe. The UNHCR's operations in South Africa need full support, along with encouraging the South African government to implement its asylum processes in a meaningful way. We again stress that the camps that have been set up to assist and protect those fleeing xenophobic violence in South Africa must not become long-term settlements for the displaced.

***Somalia and Ethiopia:*** Ongoing conflict in and around Mogadishu, as well as in the Ogaden region of Ethiopia, continues to displace Somalis who have few options for relocation. Communities of Somali refugees in the immediate region—including in Kenya, Djibouti and Yemen—remain in precarious situations. In addition to supporting humanitarian operations in the region, we urge a proactive response to the Ethiopian government in order to halt displacement and provide assistance to those currently unable to return to their homes. In addition we continue to remain extremely concerned about Somali refugees who risk their lives crossing the Gulf of Aden to Yemen. Reports are again surfacing indicating lives lost on this treacherous journey. This ongoing issue needs focused and sustained attention and resources.

***Eritrea:*** Thousands of Eritreans continue to flee their country due to political and religious persecution, in particular. Many have made it to neighboring countries where their status affords them few rights and protections. In the absence of effective diplomatic relations with the government in Asmara, we encourage the U.S. to make Eritreans a protection priority. The Eritrean government's monitoring of those who leave for reasons of persecution makes resettlement to a third country the only viable option for many Eritrean refugees in the Horn of Africa, Egypt, and elsewhere. Those who have fled since 2001 are especially hard-hit by the government's current policies and should be offered timely protection.

***Democratic Republic of Congo:*** While repatriations in several provinces have been meeting with some success, new displacement—most notably in North Kivu--has increased the numbers of those needing humanitarian assistance. Women and children continue to account for large numbers of those displaced, and violence against women and girls remains high. RCUSA stresses meaningful protection for the displaced, with particular attention to those at risk of gender-based violence. Such protection should be backed by a stronger effort to enhance resettlement for Congolese refugees who cannot return home. Across east and central Africa there is an urgent need for a more unified and cohesive approach towards resettling Congolese refugees who have no other durable solutions available. We urge PRM to support the creation of a P-2 for at-risk Congolese throughout the region.

## **Asia**

***Thailand:*** We continue to be concerned about the urban refugee caseload in Thailand. It is the policy of Thailand that assistance and refugee status determination activities should be limited to refugees residing in camps. The camps are currently closed to new registrations, however, and there is presently no way for new refugees to be registered and afforded shelter and assistance. We urge that the situation be addressed with the government of Thailand to establish a route for the registration and processing of urban cases and to explore pilot programs to allow refugees to leave the camps and work.

Additionally, UNHCR remains unable to access the recognized refugees detained in deplorable conditions at the Immigration Detention Center in Bangkok. We request that PRM continues to discuss this situation with UNHCR to determine how best to intervene with the Government of Thailand to resolve this situation.

In addition, the recent events in Thailand's Phetchabun's Province are troubling to our members. Since the beginning of this year, approximately 1,400 Lao Hmong individuals have been returned to Laos, with a group of 118 returning as recently as August 29, 2008. While the Lao government insists that all of the repatriations were voluntary, there is evidence to indicate that not all of the returnees chose to be sent back to Laos. We are pleased that this situation continues to be one of high priority for the U.S. and UNHCR, but we also continue to seek assurance from Thailand that they will immediately stop all further deportations of

Lao Hmong in Phetchabun until UNHCR can access the camp and an internationally accepted refugee status determination process is implemented. Those individuals who are found to be refugees should be granted exit visas from Thailand and be allowed to resettle in third countries. In addition, no Lao Hmong who are found to not be refugees should be forced to return to Laos until all returnees there can be guaranteed of their safety through the participation of an international monitoring entity.

We also continue to seek the resolution of the longstanding situation of the 154 Lao Hmong refugees who have been held in the Nong Khai Immigration Detention Center in Thailand since 2006. All of these individuals are UNHCR-recognized refugees, and as such should be released from detention and allowed to resettle in third countries as quickly as possible.

In addition, we remain interested in the progress of the Best Interest Determination process in Thailand and other areas of Southeast Asia for Burmese children. We fear, however, that the resettlement of the Burmese from Thailand will be complete before all the children have been evaluated. Therefore, the funding will stop and yet again these children will be left behind.

**Malaysia:** We continue to ask that the U.S. work with UNHCR to encourage the government of Malaysia to recognize the rights of the refugees and asylum seekers in Malaysia. In addition, we again call on the U.S. to work with UNHCR to encourage the expansion of resettlement opportunities for refugees in Malaysia. In addition, we ask the U.S. to work jointly with UNHCR to encourage the Malaysian government to allow UNHCR access to the settlements of Burmese living in jungle camps outside of Kuala Lumpur.

It is important to note that we are extremely supportive of UNHCR's goal to look at those Iraqis in Malaysia who are in need of international protection. While it is thought that the majority of the estimated 5,000 Iraqis in Malaysia are there with visas, we are pleased by UNHCR's efforts to refer smaller numbers of people who could benefit from resettlement, and we hope that the U.S. will be able to expeditiously process those that are referred to this country.

**Chin in India:** An estimated 50,000-60,000 Burmese Chin refugees in the Indian state of Mizoram remain in need of humanitarian assistance and refugee protection. We urge the U.S. to further engage in dialogue with UNHCR and Indian officials about the protection needs of this group. We also continue to support efforts to encourage the Indian government to allow UNHCR to access the Chin and other asylum seekers in Mizoram.

**Rohingya:** Durable solutions for Rohingya in Bangladesh and Malaysia continue to be sought. It is understood that a small number of P1 Rohingya cases have been referred for resettlement out of Bangladesh; however, no referrals for this population in Malaysia have occurred. We particularly encourage the U.S. government and UNHCR to take the steps that are necessary for the implementation of P2 group referrals for the Rohingya. Most Rohingya in Bangladesh have been living in squalid camps in for more than 16 years. In addition, the Rohingya in Malaysia, like other refugee groups in the country, remain extremely vulnerable to arrests, detention, and deportation. This stateless group should finally, after many years, be able to have access to meaningful resettlement opportunities.

### **The Americas**

As previously noted, the refugee assistance funding of the Latin American and Caribbean region is underfinanced, especially in light of the large number of displaced peoples residing in Colombia and Haiti.

The United States government in particular has an interest in promoting stability, security and human rights in this hemisphere. Unfortunately the needs of this population and the projects aimed at protecting and assisting the refugees and IDPS of Colombian extraction are too often neglected on the world scene. The entire Western Hemisphere only receives 5% of the MRA funds worldwide, less even than the MRA funds allocated to Europe. Resettlement from the region has virtually disappeared since 2004. We encourage the United States to set aside sufficient resources to substantially fund refugee and IDP work in the region, raising the level of contribution to UNHCR's budget for regional needs from 20% of the UNHCR funding request back to the level of 25% so that UNHCR can continue its important work in the region.

### ***Colombia***

The protracted humanitarian crisis in Colombia is arguably the most urgent in the Western Hemisphere. UNHCR's forward-looking initiatives in Colombia include: the opening of new offices in areas where with large internally displaced populations; work with communities-at-risk of displacement at the local level throughout Colombia, where UNHCR supports municipal governments' efforts as they create infrastructure to insulate vulnerable communities from coerced land-grabs by armed actors. UNHCR's work in partnership with UNICEF to support communities' efforts to build schools is particularly important to highlight, as this type of support will aid efforts to monitor and prevent the use and recruitment of child soldiers by irregular armed groups. UNHCR's recent IDP assistance work in Colombia has the potential to save lives and prevent displacement, and we support its full funding by donor states.

The response to protection needs of the displaced population on the ground is far from sufficient. International oversight and support is required to ensure IDPs enjoy the full benefits guaranteed by Colombia's legal framework past constitutional interpretations. We urge the UNHCR to immediately establish a presence in Buenaventura, Colombia's largest commercial port city. Buenaventura suffers extremely high rates of violence, politically motivated assassinations, and disappearances. The city is the new home of nearly 40,000 internally displaced individuals – over 10% of the city's population – who currently live in neighbourhoods controlled by paramilitaries and guerrilla. Paramilitary threats against IDP leaders have surged in recent months, culminating in the assassination of two vocal IDP leaders who had spoken out against the recruitment of children of Buenaventura into the irregular armed groups. The Buenaventura Ombudsman for Human Rights, an independent government office, has decried the spike in violence and called on the national government, the mayor's office, and international humanitarian bodies to recognize the high percentage of IDPs currently residing in Buenaventura and the protection needs of this vulnerable population.

The Colombian government recently announced plans to expand the tourist port of Buenaventura. The development of the port will result in the forced displacement of 17,000 families (approximately 84,000 people) in the Bajamar district, a district that has already suffered targeted violence at the hands of paramilitary and guerrilla operatives. UNHCR presence in the city is especially valuable during this time, as UNHCR can accompany and monitor the situation. UNHCR's input will aid local authorities and mobilized military brigades to understand the rights and needs of the newly displaced, and those residents who have suffered multiple displacements.

We note with urgent concern emerging evidence of direct involvement by parts of the Colombian military in gross human rights abuses, extrajudicial executions, and forced displacement. Also of urgent concern is the very recent increase in threats and attacks on church leaders, NGOs, humanitarian and political organizations involved in pro-peace, pro-human rights movements. The Colombian government's illegal

use of the Red Cross emblem during their miraculous rescue of a group of international hostages of the FARC in July is especially troubling to relief organizations operating in Colombia, as the use of the emblem may endanger groups working to provide humanitarian assistance to the victims of violence in FARC territories. UNHCR should be commended for its human rights training efforts with Colombian military units, aimed at promoting a culture of respect for the rights of all citizens, including IDPs. We encourage the U.S. to fund attempts by the UNHCR to increase its field presence where the Colombian military operates. We recommend that the United States dedicate more resources towards supporting UNHCR's effort to strengthen and improve the territorial committees in Colombia as they work to assist and register new waves of displaced people.

**Ecuador:** In Ecuador, the situation for many of the estimated 250,000 Colombian is also cause for serious concern. The majority of Colombian refugees living in Ecuador have yet to be registered by UNHCR and the Ecuadorian government. In response, UNHCR is supporting a promising initiative by the Ecuadorian government to launch a massive registration campaign along Ecuador's northern border. These efforts will provide relief for many of the refugees living in the northern border region, though we remain concerned about the security situation for these refugees, in the face of numerous border incursions by illegal armed groups, the violation of Ecuador's border by the Colombian government's armed forces last March, and a spate of kidnappings of Colombian refugees by armed Colombian groups in May. UNHCR, in cooperation with Ecuadorian authorities, has opened its first information center for newly arrived Colombians on the Ecuadorian border. The center is intended to help newly arrived refugees understand their rights as they enter their country of refuge. The center is hailed as an important preliminary step toward reaching the largely invisible Colombian refugee population in Ecuador, and we hope to see more such initiatives in years to come.

**Mexico:** We again encourage the U.S. to engage in discussions with Mexico about the implementation of the Mexico Plan of Action. Compared to many of their counterparts, Mexico has not moved as swiftly in adopting the plan. In addition we would be interested to know what steps Mexico has made to develop an asylum adjudication system. Also, what role is UNHCR playing in Mexico in addressing detention issues, the needs of asylum seekers, and growing levels of xenophobia and discrimination against stateless persons and refugees?

**Panama:** We again encourage the U.S. to address with Panama their confinement of Colombian asylum seekers in the Southern jungle region. Many of the Colombian refugees confined to the Darien have lived in legal limbo for almost a decade. The Panamanian government's failure to follow-through on multiple promises to regularize this population has left those confined without the most basic of services, educational opportunities, and future prospects. Persistent threats of deportation and targeted violence continue to trouble Colombian asylum seekers in Panama City, particularly in the Curundú district. We are also concerned with the overall treatment of Salvadorians in Panama. We encourage the U.S. to work with both the Panamanian government and with UNHCR to find a durable solution for Colombian refugees who are confined to the Darien jungle by Panamanian government authorities.

**Dominican Republic:** We remain concerned about the plight of Haitians residing in the Dominican Republic. The Dominican Republic's asylum adjudication system is non-existent. In March 2007 an internal memorandum issued by Dominican authorities, directed civil registry officials not to issue copies birth certificates or renewals of identity documents to any Dominicans suspected of having Haitian ancestry. This has resulted in the effective retroactive cancellation of many birth certificates and identity documents

for Dominicans of Haitian descent whose Dominican nationality was never before contested by the Dominican state.

Some Haitian refugees have waited sixteen years for an asylum decision. In the past fifteen years, the Dominican Republic has granted a total of five asylum petitions, only one of which was that of a Haitian national. We encourage PRM to work with UNHCR in identifying vulnerable Haitian refugees for resettlement from the Dominican Republic. The U.S. should also be working closely with UNHCR in placing pressure upon the Dominican Republic to fulfil its obligations and responsibilities to refugees and stateless persons under the *1951 Refugee Convention* and other instruments of international law. PRM should also fully fund UNHCR's efforts to address the protection needs of this population.

***U.S. Detention of Asylum Seekers:*** We would again like to highlight our ongoing concerns regarding the U.S. detention of asylum seekers who are detained in prison-like facilities upon their arrival at U.S. airports and at the borders. Many are detained for months and sometimes years. These asylum seekers are not given access to custody hearings before immigration judges. Instead, the decision to release or continue to detain them has been given to the detaining authority, the Department of Homeland Security. These detention policies and practices are inconsistent with the UNHCR's detention guidelines, the Refugee Convention and Protocol, and with human rights law prohibitions on arbitrary detention. We continue to strongly urge PRM to work closely with all of the relevant federal partners to make the necessary reforms to its detention policies recommended over two years ago by a bi-partisan governmental commission.

### **Humanitarian Crisis Facing Iraqi Refugees**

We remain extremely concerned about the humanitarian situation for millions of people displaced since the invasion of Iraq in 2003. Iraq's displacement crisis has steadily increased in complexity. The vast majority of refugees are still unable to work in neighboring countries. The need to pay rent, buy food and fund medical treatment, combined with the limited capacity of humanitarian agencies to meet these needs, is threatening the ability of refugees to survive. Savings go only so far. Years on from their initial flight, many families are now destitute and facing impossible choices and new risks, including child labor, prostitution and coerced "voluntary" return to Iraq.

As each month passes, more refugees need help with the basics to survive. UNHCR anticipates that the number of people needing food will continue to rise and predict that it will be distributing food to around 300,000 people by the end of 2008. Financial assistance to host countries and agencies working to support and protect refugees remains disgracefully low. States shouldering most of the responsibility are still waiting for real help. We encourage UNHCR to be creative and flexible in working with a much wider variety of locally based NGOs, as they are currently the main actors providing assistance to the displaced. We urge the international community and the U.S. in particular to fully fund the UN Consolidated Appeals Process so that much needed humanitarian relief resources can be provided.

Resettlement remains a small but essential part of the response needed, and we appreciate the U.S. government's efforts on behalf of some 12,000 Iraqi refugees this year. However, UNHCR estimates that some 80,000 Iraqis are in need of resettlement in 2009. We strongly urge the U.S. to increase its Iraqi resettlement quota for 2009.

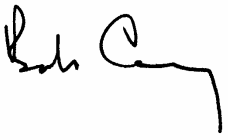
We are encouraged by the establishment of in-country processing mechanisms in Iraq and hope that this will be available to all Iraqis and other non-Iraqis, such as Palestinians and Sudanese, facing extreme persecution in Iraq.

Over 3,000 Palestinians continue to live in makeshift tented camps in hostile desert environments along the Syrian borders. We applaud the recent efforts of Iceland, Chile, and Sweden to resettle small numbers of these refugees, many of whom are torture survivors and have suffered extreme trauma. All traditional resettlement countries, including the U.S., need to urgently prioritize the immediate resettlement of this group. The U.S. should consider P-2 status for this group and the 9,000 others inside Baghdad registered with UNHCR. These refugees continue to be violently targeted inside Iraq without means to escape.

We acknowledge the hard work of the Department of State this year, and we encourage the U.S. to play an even stronger leadership role in providing direct assistance, offering bilateral aid to host countries, and facilitating timely resettlement for large numbers of Iraqis and other ethnic minorities who will never be able to return home.

We thank you sincerely for your consideration of these issues during your meetings with UNHCR and in your bi-lateral meetings. As always if you have any questions or concerns, please do not hesitate to contact me or RCUSA Director, Elizabeth Campbell, at the above address.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Carey", enclosed in a thin black rectangular border.

Robert Carey  
Chair, Refugee Council USA

Cc: Margaret Pollack, Director, PRM/MCE  
Nicole Gaertner, PRM/MCE