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February 2, 2009

Congressional Research Service

Report RL31269

*Refugee Admissions and Resettlement Policy*

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January 24, 2008

**Abstract.** Overseas processing of refugees is conducted through a system of three priorities for admission. Priority 1 comprises cases involving persons facing compelling security concerns. Priority 2 comprises cases involving persons from specific groups of special humanitarian concern to the United States (e.g., Iranian religious minorities). Priority 3 comprises family reunification cases involving close relatives of persons admitted as refugees or granted asylum. Special legislative provisions facilitate relief for certain refugee groups. The "Lautenberg Amendment" allows certain former Soviet and Indochinese nationals to qualify for refugee status based on their membership in a protected category with a credible fear of persecution. They do not have to establish persecution on an individual basis as do other refugees. P.L. 108-199 amended the Lautenberg Amendment to add the "Specter Amendment," which requires the designation of categories of Iranian religious minorities whose cases are to be adjudicated under the Lautenberg Amendment's reduced evidentiary standard. P.L. 110-161 extends the Lautenberg Amendment, as amended by the Specter Amendment, through FY2008. Another provision, referred to as the "McCain Amendment" or the "McCain-Davis Amendment," makes certain adult children of Vietnamese re-education camp survivors eligible for U.S. refugee resettlement. P.L. 110-161 extends this provision through FY2009.

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# Refugee Admissions and Resettlement Policy

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January 24, 2008

<http://wikileaks.org/wiki/CRS-RL31269>

Congressional Research Service

7-5700

[www.crs.gov](http://www.crs.gov)

RL31269

**CRS Report for Congress**

*Prepared for Members and Committees of Congress*

## Summary

A refugee is a person fleeing his or her country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. Typically, the annual number of refugees that can be admitted into the United States, known as the refugee ceiling, and the allocation of these numbers by region are set by the President after consultation with Congress at the start of each fiscal year. For FY2008, the worldwide refugee ceiling is 80,000, with 70,000 admissions numbers allocated among the regions of the world and 10,000 numbers comprising an unallocated reserve. An unallocated reserve is to be used if, and where, a need develops for refugee slots in excess of the allocated numbers. The FY2008 regional allocations are, as follows: Africa (16,000), East Asia (20,000), Europe and Central Asia (3,000), Latin America/Caribbean (3,000), and Near East/South Asia (28,000).

Overseas processing of refugees is conducted through a system of three priorities for admission. *Priority 1* comprises cases involving persons facing compelling security concerns. *Priority 2* comprises cases involving persons from specific groups of special humanitarian concern to the United States (e.g., Iranian religious minorities). *Priority 3* comprises family reunification cases involving close relatives of persons admitted as refugees or granted asylum.

Special legislative provisions facilitate relief for certain refugee groups. The “Lautenberg Amendment” allows certain former Soviet and Indochinese nationals to qualify for refugee status based on their membership in a protected category with a credible fear of persecution. They do not have to establish persecution on an individual basis as do other refugees. P.L. 108-199 amended the Lautenberg Amendment to add the “Specter Amendment,” which requires the designation of categories of Iranian religious minorities whose cases are to be adjudicated under the Lautenberg Amendment’s reduced evidentiary standard. P.L. 110-161 extends the Lautenberg Amendment, as amended by the Specter Amendment, through FY2008. Another provision, referred to as the “McCain Amendment” or the “McCain-Davis Amendment,” makes certain adult children of Vietnamese re-education camp survivors eligible for U.S. refugee resettlement. P.L. 110-161 extends this provision through FY2009.

The Department of Health and Human Service’s Office of Refugee Resettlement (HHS/ORR) administers an initial transitional assistance program for temporarily dependent refugees and Cuban/Haitian entrants. The Consolidated Appropriations Act, 2008, provides \$667.3 million in funding for ORR for FY2008, subject to a 1.747% rescission.

This report will be updated as major developments occur.

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## Background and Definitions

The admission of refugees to the United States and their resettlement here are authorized by the Immigration and Nationality Act (INA), as amended by the Refugee Act of 1980.<sup>1</sup> The 1980 Act had two basic purposes: (1) to provide a uniform procedure for refugee admissions; and (2) to authorize federal assistance to resettle refugees and promote their self-sufficiency. The intent of the legislation was to end an ad hoc approach to refugee admissions and resettlement that had characterized U.S. refugee policy since World War II.

Under the INA, a *refugee* is a person who is outside his or her country and who is unable or unwilling to return because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.<sup>2</sup> In special circumstances, a refugee also may be a person who is within his or her country and who is persecuted or has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. Excluded from the INA definition of a refugee is any person who participated in the persecution of another.<sup>3</sup>

Refugees are processed and admitted to the United States from abroad. The State Department handles overseas processing of refugees and U.S. Citizenship and Immigration Services (USCIS) of the Department of Homeland Security (DHS) makes final determinations about eligibility for admission.<sup>4</sup> Separate provision is made in the INA for the granting of *asylum* on a case-by-case basis to aliens who are physically present in the United States or at a land border or port of entry and who meet the definition of a refugee.<sup>5</sup> After one year in refugee status in the United States, refugees are required by law to apply to adjust to legal permanent resident (LPR) status.<sup>6</sup>

## Refugee Admissions

It is U.S. policy to admit at least half of the refugees referred by the United Nations High Commissioner for Refugees (UNHCR) for resettlement each year, depending on the availability of funding. By law, the annual number of refugee admissions and the allocation of these numbers by region of the world are set by the President after consultation with Congress.<sup>7</sup> Each year, the President submits a report to the House of Representatives and the Senate, known as the *consultation document*, which contains the Administration's proposed worldwide refugee ceiling and regional allocations for the upcoming fiscal year. Following congressional consultations on

<sup>1</sup> The INA is Act of June 27, 1952, ch. 477, codified as amended at 8 U.S.C. §§ 1101 *et seq.* The Refugee Act is P.L. 96-212, March 17, 1980.

<sup>2</sup> This definition conforms with the definition used in the United Nations Convention and Protocol relating to the status of refugees.

<sup>3</sup> INA § 101(a)(42).

<sup>4</sup> Refugee adjudications were previously handled by the Immigration and Naturalization Service (INS) of the Department of Justice. The Homeland Security Act of 2002 (P.L. 107-296, November 25, 2002) abolished INS and transferred most of its functions to DHS as of March 1, 2003.

<sup>5</sup> See CRS Report RL32621, *U.S. Immigration Policy on Asylum Seekers*, by Ruth Ellen Wasem.

<sup>6</sup> INA §209(a). Asylees (those granted asylum) may apply for LPR status after one year, but are not required to do so. There are no numerical limitations on refugee or asylee adjustments of status.

<sup>7</sup> INA §207(a).

the Administration's proposal, the President issues a Presidential Determination setting the refugee numbers for that year.<sup>8</sup> **Table 1** shows refugee admissions ceilings and regional allocations for FY1998-FY2008.

The U.S. refugee program was significantly affected by the terrorist attacks of September 11, 2001. In the aftermath of those attacks, a review of refugee-related security procedures was undertaken, refugee admissions were briefly suspended, and enhanced security measures were implemented. As a result of these and other factors, actual refugee admissions plunged, declining from an FY2001 total of 69,304 to an FY2002 total of 27,110 and an FY2003 total of 28,422, as shown in the last row of **Table 1**.<sup>9</sup> Admissions have rebounded since then, but annual refugee admissions since FY2004 have remained below pre-September 11 levels.

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<sup>8</sup> Asylees are not included in the refugee ceiling. There are no numerical limitations on the granting of asylum.

<sup>9</sup> Refugee admissions had not been at or below the FY2002 or FY2003 levels since FY1977, when admissions totaled about 20,000. From FY1979 through FY2001, annual refugee admissions totaled more than 60,000. For annual data on refugee admissions by region since FY1987, see the **Appendix** at the end of this report.

**Table I. Refugee Admissions Ceilings and Regional Allocations, FY1998-FY2008**

| Region                               | FY1998                    | FY1999                    | FY2000        | FY2001        | FY2002        | FY2003        | FY2004              | FY2005              | FY2006        | FY2007              | FY2008        |
|--------------------------------------|---------------------------|---------------------------|---------------|---------------|---------------|---------------|---------------------|---------------------|---------------|---------------------|---------------|
| Africa                               | 7,000                     | 12,000                    | 18,000        | 20,000        | 22,000        | 20,000        | 30,000 <sup>e</sup> | 21,000 <sup>f</sup> | 20,000        | 22,000              | 16,000        |
| East Asia                            | 14,000                    | 9,000                     | 8,000         | 6,000         | 4,000         | 4,000         | 8,500 <sup>e</sup>  | 13,000              | 15,000        | 16,000 <sup>g</sup> | 20,000        |
| Europe and Central Asia <sup>a</sup> | 51,000                    | 61,000 <sup>c</sup>       | 47,000        | 37,000        | 26,000        | 16,500        | 13,000              | 15,500 <sup>f</sup> | 15,000        | 6,500               | 3,000         |
| Latin America/Caribbean              | 4,000                     | 3,000                     | 3,000         | 3,000         | 3,000         | 2,500         | 3,500               | 7,000 <sup>f</sup>  | 5,000         | 5,000               | 3,000         |
| Near East/South Asia                 | 4,000                     | 4,000                     | 8,000         | 10,000        | 15,000        | 7,000         | 3,000 <sup>e</sup>  | 3,500 <sup>f</sup>  | 5,000         | 9,000 <sup>g</sup>  | 28,000        |
| Unallocated                          | 3,000                     | 2,000                     | 6,000         | 4,000         | —             | 20,000        | 12,000 <sup>e</sup> | 11,000 <sup>f</sup> | 10,000        | 11,500 <sup>g</sup> | 10,000        |
| <b>Total ceilings</b>                | <b>83,000<sup>b</sup></b> | <b>91,000<sup>d</sup></b> | <b>90,000</b> | <b>80,000</b> | <b>70,000</b> | <b>70,000</b> | <b>70,000</b>       | <b>70,000</b>       | <b>70,000</b> | <b>70,000</b>       | <b>80,000</b> |
| Actual admissions                    | 77,080                    | 85,525                    | 73,147        | 69,304        | 27,110        | 28,422        | 52,868              | 53,813              | 41,279        | 48,281              | NA            |

**Sources:** For ceiling and allocation data: PD 97-37, Sept. 30, 1997; PD 98-39, Sept. 30, 1998; PD 99-33, Aug. 12, 1999; PD 99-45, Sept. 30, 1999; PD 2000-32, Sept. 29, 2000; PD 02-04, Nov. 21, 2001; PD 03-02, Oct. 16, 2002; PD 2004-06, Oct. 21, 2003; PD 2004-53, Sept. 30, 2004; PD 2006-3, Oct. 24, 2005; PD 2007-1, Oct. 11, 2006; PD 2008-1, Oct. 2, 2007; U.S. Department of State, U.S. Department of Justice, and U.S. Department of Health and Human Services, *Proposed Refugee Admissions...*, Fiscal Years 1998-2008. For actual admissions data: U.S. Department of State, Bureau of Population, Refugees and Migration.

- a. For FY1998-FY2003, separate sub-allocations were provided for the former Yugoslavia and the Former Soviet Union (FSU); they are combined here.
- b. Includes 5,000 unfunded numbers for the FSU to be used if necessary and if funding is available.
- c. Includes 13,000 numbers for Kosovar refugees added by Emergency Presidential Determination (PD 99-33)
- d. Includes 3,000 unfunded numbers for the FSU to be used if necessary and if funding is available.
- e. Of the FY2004 ceiling of 70,000, 50,000 numbers were originally allocated by region and 20,000 were unallocated. The unallocated reserve was tapped during the year to provide 8,000 additional numbers to Africa, East Asia, and Near East/South Asia.
- f. Of the FY2005 ceiling of 70,000, 50,000 numbers were originally allocated by region and 20,000 were unallocated. The unallocated reserve was tapped during the year to provide 10,000 additional numbers to Africa, Europe and Central Asia, Latin America/Caribbean, and Near East/South Asia.
- g. Of the FY2007 ceiling of 70,000, 50,000 numbers were originally allocated by region and 20,000 were unallocated. The unallocated reserve was tapped during the year to provide 8,500 additional numbers to East Asia and Near East/South Asia.

## FY2008 Refugee Ceiling and Allocations

On October 2, 2007, President Bush signed the Presidential Determination setting the FY2008 worldwide refugee ceiling and regional levels.<sup>10</sup> The FY2008 ceiling is 80,000, an increase from the ceiling of 70,000 in the past several years. **Table 1** above shows refugee admissions ceilings and regional allocations for FY1998-FY2008. The ceiling and allocations in the FY2008 Presidential Determination are identical to those in the FY2008 consultation document.<sup>11</sup>

The FY2008 refugee ceiling of 80,000 includes 70,000 admissions numbers allocated among the regions of the world and an unallocated reserve of 10,000 numbers. An unallocated reserve is to be used if, and where, a need develops for refugee slots in excess of the allocated numbers. This occurred in FY2007 and some earlier years, as detailed in **Table 1**. Also as shown in **Table 1**, unallocated reserves have accounted for a higher percentage of the total refugee ceiling since FY2003 than in prior years.

Africa has been allocated 16,000 refugee admissions numbers for FY2008. The FY2007 allocation to the region was 22,000 and admissions totaled 17,482. For Africa, as for all regions, the FY2008 allocation is intended to cover previously approved refugees in the pipeline as well as new cases. The new African cases are expected to be mainly members of groups of special humanitarian concern to the United States and family reunification cases (see discussion below of the “Refugee Processing Priorities”).

East Asia’s FY2008 allocation is 20,000 refugee numbers, compared with an FY2007 allocation of 16,000. FY2007 admissions totaled 15,643. FY2008 admissions are expected to consist primarily of Burmese refugees living in Thailand and Malaysia.

Europe and Central Asia have a combined FY2008 allocation of 3,000 refugee numbers. The FY2007 allocation for this region was 6,500, and admissions totaled 4,561. For FY2008, this allocation includes projected admissions of “Lautenberg Amendment” cases from the former Soviet Union (discussed below).

The FY2008 allocation for Latin America and the Caribbean is 3,000, compared with an FY2007 allocation of 5,000. FY2007 admissions totaled 2,976. Cubans account for the vast majority of admissions from this region.

The Near East/South Asia FY2008 allocation is 28,000, more than triple the FY2007 allocation of 9,000. FY2007 admissions totaled 7,619. FY2008 admissions are expected to include primarily cases of Iraqis, Bhutanese, and Iranian religious and ethnic minorities.

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<sup>10</sup> U.S. President [George W. Bush], “Presidential Determination on FY 2008 Refugee Admissions Numbers and Authorizations of In-Country Refugee Status ...,” Presidential Determination No. 2008-1, 72 *Federal Register*, pp. 58991-58992, October 18, 2007.

<sup>11</sup> U.S. Department of State, U.S. Department of Homeland Security, and U.S. Department of Health and Human Services, *Proposed Refugee Admissions for Fiscal Year 2008: Report to the Congress*. (Hereafter cited as *Proposed Refugee Admissions for Fiscal Year 2008*).

## Refugee Processing Priorities

The State Department is responsible for overseas processing of refugees. Generally, it arranges for an overseas processing entity (OPE) to conduct pre-screening interviews of prospective refugees and prepare cases for submission to USCIS, which handles refugee adjudications. Overseas refugee processing is conducted through a system of three priorities for admission. These priorities are separate and distinct from whether such persons qualify for refugee status. Priority assignment, however, does reflect an assessment of the urgency with which such persons need to be resettled.

*Priority 1* covers compelling protection cases and refugees for whom no durable solution exists, who are referred to the U.S. refugee program by UNHCR, a U.S. embassy, or a designated non-governmental organization (NGO). Such persons may be in danger of attack or of being returned to the country they fled. All nationalities are eligible for this priority.

*Priority 2* covers groups of special humanitarian concern to the United States. It includes specific groups that may be defined by their nationalities, clans, ethnicities, or other characteristics. Some of these groups, such as Cuban dissidents and certain former Soviet nationals (“Lautenberg Amendment” cases, discussed below), are processed in their country of origin. Other Priority 2 groups are processed outside their country of origin. These include Iranian religious minorities (“Specter Amendment” cases, discussed below) processed in Austria and Turkey, and Burmese in refugee camps in Thailand. Unlike Priority 1 cases, individuals falling under Priority 2 are able to access the U.S. refugee program without a UNHCR, embassy, or NGO referral.

*Priority 3* covers family reunification cases. Since FY2004, it has comprised cases of spouses, unmarried children under age 21, and parents of persons who were admitted to the United States as refugees or granted asylum. Priority 3 refugee applications are based upon *affidavits of relationship* (AORs). Individuals falling under Priority 3, like those falling under Priority 2, are able to access the U.S. refugee program without a UNHCR, embassy, or NGO referral. The number of nationalities eligible for Priority 3 processing has varied in recent years. During the late 1990s, the State Department found that a large number of Priority 3 applications were received from persons who did not qualify for refugee status and that there was a significant amount of fraud associated with these applications. To address these problems, the U.S. government reduced the number of nationalities eligible for such refugee slots. For FY2003, four nationalities were eligible for Priority 3 processing. For FY2004, the Priority 3 program was revised on a pilot basis. To simultaneously broaden access to the program and continue to address concerns about fraud, the number of eligible nationalities was increased to nine, while the types of qualifying relationships were restricted. As noted above, eligibility for Priority 3 currently requires a qualifying relationship with an individual who was admitted to the United States as a refugee or granted asylum. Prior to FY2004, this processing priority was available to those with qualifying relationships with a much wider range of legal U.S. residents without regard to how these residents gained admission to the United States. In another change, beginning in FY2004, children had to be under age 21 to be eligible for Priority 3. In the past, this processing priority had also been available to older unmarried sons and daughters. These changes to the Priority 3 qualifying relationships have remained in place since FY2004. For FY2008, Priority 3 processing is available to nationals of 17 countries.<sup>12</sup>

<sup>12</sup> The countries are: Afghanistan, Burma, Burundi, Colombia, Congo (Brazzaville), Cuba, Democratic People’s Republic of Korea (DPRK), Democratic Republic of Congo (DRC), Eritrea, Ethiopia, Haiti, Iran, Iraq, Rwanda, (continued...)

## Refugee Adjudications

USCIS is responsible for adjudicating refugee cases. It makes determinations about whether an individual qualifies for refugee status and is otherwise admissible to the United States. In the past, the majority of refugee adjudications were conducted by USCIS officers on temporary duty from domestic asylum offices. Today, these adjudications are handled by USCIS officers in the Refugee Corps.

## Admissibility of Refugees

In order to be admitted to the United States, a prospective refugee must be *admissible* under immigration law. The INA sets forth various grounds of inadmissibility, which include health-related grounds, security-related grounds, public charge (i.e., indigence), and lack of proper documentation. Some inadmissibility grounds (public charge, lack of proper documentation) are not applicable to refugees. Others can be waived for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.<sup>13</sup> Of particular relevance to the admission of refugees are certain health-related and security-related grounds of inadmissibility.

The INA health-related grounds of inadmissibility include infection with the human immunodeficiency virus (HIV). Prior to June 1999, HIV-infected refugees could qualify for a waiver by showing the following: (1) the danger they posed to the public health was minimal; (2) the possibility that they would spread the disease was minimal; and (3) they would not create additional costs for government agencies at any level, unless they had the consent of the relevant agencies. On June 16, 1999, the former Immigration and Naturalization Service (INS) revised this policy, easing the waiver requirements for HIV-infected refugees. Under the new policy, HIV-positive refugees are no longer required to show that they would not create additional costs for government-funded programs. The rationale for the change was that there are federally-funded programs and services available to such refugees (e.g., Refugee Medical Assistance, Medicaid, and other services supported through the Ryan White CARE Act), and that this eligibility serves as the U.S. government's consent to incur costs for HIV-positive refugees. The new regulations still require that such refugees have counseling and agree to take precautions to prevent the spread of HIV.

Since 1990, the security-related grounds of inadmissibility in the INA have expressly included terrorism-related grounds. Over the years, the terrorism-related grounds have been amended to lower the threshold for how substantial, apparent, and immediate an alien's support for a terrorist activity or organization may be for the alien to be rendered inadmissible.<sup>14</sup> Among the current terrorism-related grounds, an alien is inadmissible for engaging in terrorist activity if he or she gives any material support, such as a safe house, transportation, communications, or funds, to a terrorist organization or any of its members or to a person engaged in terrorist activity. The Secretary of State or the Secretary of DHS, after consultation with the other and the Attorney General, may exercise discretionary waiver authority over certain terrorism-related grounds of

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(...continued)

Somalia, Sudan, and Uzbekistan.

<sup>13</sup> Certain grounds of inadmissibility, including most security-related grounds, cannot be waived.

<sup>14</sup> See CRS Report RL32564, *Immigration: Terrorist Grounds for Exclusion and Removal of Aliens*, by Michael John Garcia and Ruth Ellen Wasem.

inadmissibility, including the material support provision. Both the Secretary of State and the Secretary of DHS have exercised this waiver authority with respect to certain categories of individuals. The FY2008 consultation document characterized the impact of the use of this waiver authority in FY2007, as follows:

With the Secretary of State and Secretary of Homeland Security ... exercising their separate authorities to render the material support inadmissibility provision inapplicable, over 2,500 refugees who would have been forced otherwise to remain in refugee camps or survive under similar precarious circumstances have been approved to enter the United States ....<sup>15</sup>

The Consolidated Appropriations Act, 2008, enacted in December 2007,<sup>16</sup> specifies groups that, for purposes of the INA terrorism-related grounds of inadmissibility, are not to be considered terrorist organizations on the basis of past acts. Thus, a prospective refugee who provided support to one of these groups would not be subject to the material support inadmissibility provision on the basis of those actions. More broadly, the Consolidated Appropriations Act expands the discretionary authority of the Secretary of State and the Secretary of DHS to grant waivers of the terrorism-related grounds of inadmissibility generally.

## Special Refugee Provisions

### Lautenberg Amendment and Specter Amendment

The “Lautenberg Amendment” is a provision of the FY1990 Foreign Operations Appropriations Act.<sup>17</sup> It requires the Attorney General to designate categories of former Soviet and Indochinese nationals for whom less evidence is needed to prove refugee status, and provides for adjustment to permanent resident status of certain Soviet and Indochinese nationals granted parole after being denied refugee status.<sup>18</sup> Applicants for refugee status under the special provision are only required to prove that they are members of a protected category with a credible, but not necessarily individual, fear of persecution. By contrast, the INA requires prospective refugees to establish a well-founded fear of persecution on a case-by-case basis.

The Lautenberg Amendment has been regularly extended in appropriations acts. The Consolidated Appropriations Act, 2004,<sup>19</sup> in addition to extending the amendment through FY2004, amended the Lautenberg Amendment to add a new provision known as the “Specter Amendment.” The Specter Amendment requires the designation of categories of Iranian nationals, specifically religious minorities, for whom less evidence is needed to prove refugee status. The Consolidated Appropriations Act, 2008,<sup>20</sup> extends the Lautenberg Amendment, including the Specter Amendment, through FY2008.

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<sup>15</sup> *Proposed Refugee Admissions for Fiscal Year 2008*, p. iii.

<sup>16</sup> P.L. 110-161, Division J, December 26, 2007.

<sup>17</sup> P.L. 101-167, November 21, 1989.

<sup>18</sup> P.L. 101-167, §599D and §599E. Parole is a temporary authorization to enter the United States and is typically granted when the alien’s entry is determined to be in the public interest.

<sup>19</sup> P.L. 108-199, January 23, 2004.

<sup>20</sup> P.L. 110-161, December 26, 2007. Earlier extensions were included in P.L. 108-447, December 8, 2004; P.L. 109-102, November 14, 2005; and P.L. 110-5, February 15, 2007.

## Vietnamese Refugees

The “McCain Amendment” was first enacted in the FY1997 Omnibus Consolidated Appropriations Act.<sup>21</sup> It covered certain adult children, whose parents were Vietnamese re-education camp survivors and had been accepted for U.S. refugee resettlement. The amendment made the adult children eligible for U.S. refugee resettlement. It was subsequently amended and extended through FY1999.

In November 1999, the McCain Amendment was re-enacted in revised form for FY2000 and FY2001 in the FY2000 Consolidated Appropriations Act.<sup>22</sup> As revised, it applied to the adult children of a re-education camp survivor who was residing in the United States or awaiting departure from Vietnam and who, after April 1995, was accepted for U.S. refugee resettlement or for admission as an immediate relative immigrant. The April 1995 date restriction did not apply to children who were previously denied refugee resettlement because their documents did not show continuous co-residency with their parent.

Legislation to amend and extend the provision through FY2003 was approved by the 107<sup>th</sup> Congress in May 2002.<sup>23</sup> This law eliminated the existing April 1995 date restriction. Thus, children who were previously denied refugee resettlement for reasons other than co-residency could also have their cases reconsidered. This revised provision, which has been regularly extended,<sup>24</sup> is sometimes referred to as the “McCain-Davis Amendment.” The Consolidated Appropriations Act, 2008,<sup>25</sup> extends the McCain-Davis Amendment through FY2009.

## Refugee Resettlement Assistance

The Department of Health and Human Service’s Office of Refugee Resettlement (HHS/ORR), within the Administration for Children and Families, administers an initial transitional assistance program for temporarily dependent refugees and Cuban/Haitian entrants. Since its establishment in 1980, the refugee resettlement program has been justified on the grounds that the admission of refugees is a federal decision, entailing some federal responsibility. Unlike immigrants who enter through family or employment ties, refugees are admitted on humanitarian grounds, and there is no requirement that they demonstrate economic self-sufficiency.

For FY2007, the Revised Continuing Appropriations Resolution, 2007,<sup>26</sup> provided \$587.8 million for refugee assistance. For FY2008, the Consolidated Appropriations Act, 2008, provides \$667.3 million for ORR programs.<sup>27</sup> This funding is subject to a rescission of 1.747%. **Table 2** details refugee resettlement funding for FY2002-FY2008.

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<sup>21</sup> P.L. 104-208, September 30, 1996.

<sup>22</sup> P.L. 106-113, November 29, 1999.

<sup>23</sup> P.L. 107-185, May 30, 2002.

<sup>24</sup> It was extended by P.L. 108-447 and P.L. 109-102.

<sup>25</sup> P.L. 110-161, December 26, 2007.

<sup>26</sup> P.L. 110-5, February 15, 2007.

<sup>27</sup> P.L. 110-161, December 26, 2007.

**Table 2. Refugee Resettlement Funding, FY2002-FY2008**  
(budget authority in millions)

| Programs                                  | FY02<br>actual | FY03<br>enacted   | FY04<br>actual | FY05<br>actual | FY06<br>actual | FY07<br>enacted | FY08<br>enacted <sup>f</sup> |
|---|----------------|-------------------|----------------|----------------|----------------|-----------------|------------------------------|
| Transitional/Cash and Medical Services    | \$227.2        | \$219.9           | \$169.0        | \$205.0        | \$265.4        | \$265.5         | \$301.3                      |
| Victims of Trafficking <sup>a</sup>       | 10.0           | 9.9               | 9.9            | 9.9            | 9.8            | 9.8             | 10.0                         |
| Social Services                           | 158.6          | 150.1             | 152.2          | 152.2          | 153.9          | 154.0           | 156.7                        |
| Victims of Torture <sup>b</sup>           | 10.0           | 9.9               | 9.9            | 9.9            | 9.8            | 9.8             | 10.0                         |
| Preventive Health                         | 4.8            | 4.8               | 4.8            | 4.8            | 4.7            | 4.7             | 4.8                          |
| Targeted Assistance                       | 49.5           | 49.2              | 49.0           | 49.1           | 48.6           | 48.6            | 49.5                         |
| Unaccompanied Alien Children <sup>c</sup> | —              | 37.1 <sup>e</sup> | 52.8           | 53.8           | 77.2           | 95.3            | 135.0                        |
| <b>Total<sup>d</sup></b>                  | <b>\$460.2</b> | <b>\$480.9</b>    | <b>\$447.6</b> | <b>\$484.7</b> | <b>\$569.4</b> | <b>\$587.8</b>  | <b>\$667.3</b>               |

**Sources:** U.S. Department of Health and Human Services, Administration for Children and Families, *Justifications of Estimates for Appropriations Committees*, Fiscal Years 2002-2008; U.S. Department of Health and Human Services, Administration for Children and Families, "Administration for Children and Families 2005-2007 All-Purpose Table"; U.S. Congress, House Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, FY2008 funding table.

- Funding used primarily for administrative cost of certifying that an alien is a trafficking victim for purposes of receiving benefits and services.
- Funding used for rehabilitation services, social services, and legal services for torture victims and for provision of research and training to health care providers.
- The Homeland Security Act of 2002 (P.L. 107-296) transferred functions under U.S. immigration law related to the care of unaccompanied alien children from the then-INS to HHS/ORR.
- Sum of listed amounts may not equal total due to rounding.
- This funding was transferred to ORR from the former INS, pursuant to P.L. 107-296.
- Amounts do not reflect the required 1.747% rescission.

ORR-funded activities include cash and medical assistance, social services to help refugees become socially and economically self-sufficient, and targeted assistance for impacted areas. Special refugee cash assistance (RCA) and refugee medical assistance (RMA) are the heart of the refugee program, accounting for a greater portion of the ORR annual budget than any other activity (see **Table 2**). RCA and RMA, which are administered by the states, are intended to help needy refugees who are ineligible to receive benefits from mainstream federal assistance programs. RCA and RMA are currently available to refugees for eight months after entry.<sup>28</sup> RMA benefits are based on the state's Medicaid program, and RCA payments are now based on the state's Temporary Assistance for Needy Families (TANF) payment to a family unit of the same size. For example, an able-bodied couple below age 65 would receive an RCA benefit equal to that of a two-person TANF family.

<sup>28</sup> INA §412(e)(1) authorizes ORR to reimburse states for RCA and RMA for 36 months. Initially, beginning in April 1980, RCA and RMA were available for the full 36 months. As appropriations levels decreased in subsequent years, however, the period of coverage was reduced. Since October 1991, RCA and RMA have been available to refugees for eight months after entry.

HHS/ORR published a final rule in March 2000 to amend its regulations to reflect changes resulting from the replacement of AFDC by TANF.<sup>29</sup> Most of the amendments became effective on April 21, 2000. The rule gives states the option to establish RCA programs that are a “public/private partnership” between states and private volunteer agencies, or to maintain state administration of RCA programs. In addition, the ORR program was significantly affected by the 1996 welfare reform act and subsequent amendments.<sup>30</sup> Prior to this legislation, refugees who otherwise met the requirements of federal public assistance programs were immediately and indefinitely eligible to participate in them just like U.S. citizens. Now, refugees and other specified humanitarian entrants are subject to time limits. **Table 3** summarizes the time limits on refugee eligibility for four major public assistance programs.

**Table 3. Refugee Eligibility for Major Federal Public Assistance Programs**

| Program   | Eligibility  |
|---|--|
| Supplemental Security Income (SSI) for the Aged, Blind and Disabled | Eligible for seven years after entry.                    |
| Medicaid (non-emergency care)                                       | Eligible for seven years after entry, then state option. |
| TANF  | Eligible for five years after entry, then state option.  |
| Food Stamps   | Eligible without time limits.                            |

http://wikileaks.org/wiki/CRS-RL31269

<sup>29</sup> U.S. Department of Health and Human Services, Office of Refugee Resettlement, “Refugee Resettlement Program; Requirements for Refugee Cash Assistance; and Refugee Medical Assistance,” 65 *Federal Register*, pp. 15409-15450, March 22, 2000.

<sup>30</sup> The 1996 welfare reform law is the Personal Responsibility and Work Opportunity Reconciliation Act, P.L. 104-193, August 22, 1996.

## Appendix. Refugee Admissions by Region, FY1987- FY2007

| FY   | Africa | East Asia           | Eastern Europe      | Former Soviet Union | Latin America/ Caribbean | Near East/ South Asia | Total          |
|------|--------|---------------------|---------------------|---------------------|--------------------------|-----------------------|----------------|
| 1987 | 1,990  | 40,099              | 8,396               | 3,699               | 323                      | 10,021                | <b>64,528</b>  |
| 1988 | 1,593  | 35,371              | 7,510               | 20,411              | 3,230 <sup>a</sup>       | 8,368                 | <b>76,483</b>  |
| 1989 | 1,902  | 45,722              | 8,752               | 39,602              | 4,116 <sup>a</sup>       | 6,976 <sup>a</sup>    | <b>107,070</b> |
| 1990 | 3,453  | 51,604 <sup>a</sup> | 6,094               | 50,628              | 5,308 <sup>a</sup>       | 4,979                 | <b>122,066</b> |
| 1991 | 4,420  | 53,522              | 6,837               | 39,226              | 4,042 <sup>a</sup>       | 5,342                 | <b>113,389</b> |
| 1992 | 5,470  | 51,899              | 2,915               | 61,397              | 3,947 <sup>a</sup>       | 6,903                 | <b>132,531</b> |
| 1993 | 6,967  | 49,817              | 2,582               | 48,773              | 4,322 <sup>a</sup>       | 6,987                 | <b>119,448</b> |
| 1994 | 5,860  | 43,564              | 7,707               | 43,854              | 6,156                    | 5,840                 | <b>112,981</b> |
| 1995 | 4,827  | 36,987              | 10,070              | 35,951              | 7,629                    | 4,510                 | <b>99,974</b>  |
| 1996 | 7,604  | 19,321              | 12,145              | 29,816              | 3,550                    | 3,967                 | <b>76,403</b>  |
| 1997 | 6,065  | 8,594               | 21,401              | 27,331              | 2,996                    | 4,101                 | <b>70,488</b>  |
| 1998 | 6,887  | 10,854              | 30,842              | 23,557              | 1,627                    | 3,313                 | <b>77,080</b>  |
| 1999 | 13,043 | 10,206              | 38,658              | 17,410              | 2,110                    | 4,098                 | <b>85,525</b>  |
| 2000 | 17,561 | 4,561               | 22,561              | 15,103              | 3,232                    | 10,129                | <b>73,147</b>  |
| 2001 | 19,021 | 3,725               | 15,777              | 15,748              | 2,973                    | 12,060                | <b>69,304</b>  |
| 2002 | 2,548  | 3,525               | 5,439               | 9,963               | 1,933                    | 3,702                 | <b>27,110</b>  |
| 2003 | 10,717 | 1,724               | 2,525               | 8,744               | 452                      | 4,260                 | <b>28,422</b>  |
| 2004 | 29,125 | 8,079               | 9,254 <sup>b</sup>  |                     | 3,555                    | 2,855                 | <b>52,868</b>  |
| 2005 | 20,749 | 12,071              | 11,316 <sup>b</sup> |                     | 6,700                    | 2,977                 | <b>53,813</b>  |
| 2006 | 18,182 | 5,659               | 10,456              |                     | 3,264                    | 3,718                 | <b>41,279</b>  |
| 2007 | 17,482 | 15,643              | 4,561               |                     | 2,976                    | 7,619                 | <b>48,281</b>  |

**Source:** U.S. Department of State, Bureau of Population, Refugees and Migration.

- a. Includes refugees admitted under the Private Sector Initiative (PSI), most of whom were Cuban.
- b. Beginning in FY2004, the categories of Eastern Europe and the Former Soviet Union were combined into a single category, Europe and Central Asia. These are the total admissions under that category.

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