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RECORD ID: 9406004
RECEIVED: 25 JUL 94 13

TO: LAKE

FROM: BERMAN, HOWARD L

DOC DATE: 20 JUL 94
SOURCE REF:

KEYWORDS: HAITI
NCO

BUDGET

PERSONS:

SUBJECT: URGE PRES TO USE FAA RATHER THAN ERMA FUNDS FOR HAITIAN MIGRATION

ACTION: OBE / STATUS OF ORIGINAL UNKNOWN DUE DATE: 28 JUL 94 STATUS: C

STAFF OFFICER: SCHWARTZ

LOGREF:

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D O C U M E N T D I S T R I B U T I O N

FOR ACTION

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ACTION DATA SUMMARY REPORT

RECORD ID: 9406004

DOC ACTION OFFICER

CAO ASSIGNED ACTION REQUIRED

001 ROSSIN
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Z 94080508 PREPARE MEMO FOR LAKE
Z 94080508 ACTION TRANSFERRED
Z 94080508 PREPARE MEMO FOR LAKE
X 95073110 OBE / STATUS OF ORIGINAL UNKNOWN

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TO: LAKE

SUSPENDED

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STAFF OFFICER: ROSSIN

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D O C U M E N T D I S T R I B U T I O N

FOR ACTION
ROSSIN

FOR CONCURRENCE
CLARKE
DANVERS
HALPERIN
SCHWARTZ
WALSH

FOR INFO
FEINBERG
ITOH

COMMENTS:

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4

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One Hundred Third Congress

Congress of the United States

Committee on Foreign Affairs

House of Representatives

Washington, DC 20515

July 20, 1994

6007
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Mr. W. Anthony Lake
Assistant to the President
for National Security Affairs
The White House
Washington, D.C. 20500

Dear Tony:

I am writing you to express concern regarding the recent approval of a \$7 million drawdown in funding from the Department of State's Emergency Migration and Refugee Assistance (ERMA) account for expenses related to Haiti. For a number of reasons, I would hope both that this decision can be reconsidered, and that further funding demands related to Haitian refugees could be met in other ways.

The justification accompanying the President's determination of July 1 cited the need to "respond to unexpected and urgent needs of Haitian migrants" and the "U.S. national interest [in] providing humanitarian support ...". I applaud both the responsiveness and commitment to principle thus articulated. I am concerned, however, that the use of ERMA funding in the case at hand may represent not only the tapping of a nearly dry well, but a case of the wrong well for what you want to do.

However complicated issues surrounding the plight of the Haitian "boat people" may be, the fact is that we have now undertaken a policy to secure "safe havens" for them in third countries so as to preclude their entry into the United States. Whatever the arguments for or against this approach, its purposes and effects appear to amount to those of immigration control. In other words, we are talking about individuals who will become refugees abroad, for purposes of U.S. assistance, not because they have sought refuge there, and not because their claims of persecution are necessarily valid, but solely because we have physically prevented their entry into this country.

This being the case, I question both the wisdom and the propriety of using ERMA funding for support of those Haitians who end up in "safe haven" countries, particularly since the "support" thus far has been largely indirect, in the form of bilateral payments to foreign governments which agree to accept Haitian migrants on our behalf. In the first place, immigration control is a mission of the Justice Department, which would be responsible for the costs of detaining and processing Haitian migrants claiming asylum status in the U.S., were they not being prevented from reaching the United States.

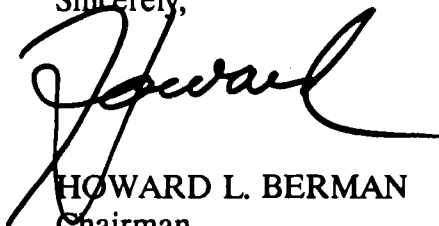
As concerns bilateral payments to foreign governments in furtherance of bilateral agreements (as in the present case), these appear to me to be more properly a function of ESF. State Department overseas refugee assistance funding, on the other hand, is used in different ways, and in pursuit of different missions. As a matter of practice, it is provided to UNHCR and like organizations for direct support -- food, medicine and clothing, for example -- of migrants in first asylum countries. Our purpose in this is to encourage such countries to continue protecting asylum seekers. In this instance, ironically, the United States would be the country of first asylum (and ERMA funding would not be an option), were it not, as I mentioned above, for our current exclusionary policy.

In this regard, it appears to me that the Administration is caught on the horns of a definitional dilemma. If -- as has been asserted -- most Haitian migrants are not refugees, then it is hard to see how expenditure of ERMA (or regular MRA) funding on their behalf would be consistent with the statutory framework of the Migration and Refugee Assistance Act of 1962. If, on the other hand, they are refugees for purposes of an ERMA drawdown, then it is hard to understand why they should be denied the opportunity to apply for admission to the U.S.

Definitional abstractions aside, I am concerned that the ERMA account is simply insufficiently funded for the global demands at hand. By any measure, we are talking about a small account, and expected massive demands on its funding for crises -- in Bosnia and Rwanda, for example -- which in everyone's view are appropriate objects of ERMA funding. Legitimate alternative sources of funding for Rwanda and Bosnia are few. For Haiti, on the other hand, alternatives do exist. As I know you are aware, Section 506(a)(2) of the Foreign Assistance Act explicitly authorizes the drawdown of defense services "for the purposes and under the authorities" of the 1962 Act. Even if we end up agreeing to disagree on all the policy questions raised above, the use of this FAA authority would seem to me to be preferable to the rapid depletion of the ERMA account, leaving us unable to meet unquestioned needs where few alternatives exist.

The above said, I fully appreciate the difficulty of trying to balance competing funding demands in an environment of rapidly changing refugee crises. Nonetheless, I hope you will do what you can to keep from exhausting our options too early. There may come a time when ERMA spending for Haiti -- whatever my discomfort over it -- may be unavoidable. As of today, I don't think we're there yet.

Sincerely,

A handwritten signature in black ink, appearing to read "Howard", with a stylized flourish extending from the end.

HOWARD L. BERMAN
Chairman
Subcommittee on
International Operations