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RECORD ID: 9801528
RECEIVED: 02 MAR 98 13

TO: DAVIES

FROM: JUKES, J

DOC DATE: 27 FEB 98
SOURCE REF: IMS250

KEYWORDS: HAITI
IMMIGRATION

LEGISLATIVE REFERRAL

PERSONS:

SUBJECT: OMB REQUEST FOR VIEWS ON S-1504 HAITIAN REFUGEE IMMIGRATION FAIRNESS
ACT OF 1997

ACTION: ACTION COMPLETED BY PHONE

DUE DATE: 07 MAR 98 STATUS: C

STAFF OFFICER: HOFMANN

LOGREF:

FILES: WH

NSCP:

CODES:

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

FOR ACTION

FOR CONCURRENCE

FOR INFO

COMMENTS: *** DUE 4 MAR @ NOON ***

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ACTION DATA SUMMARY REPORT

RECORD ID: 9801528

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CAO ASSIGNED ACTION REQUIRED

Z 98030213 PREPARE MEMO DAVIES TO JUKES
X 98030515 ACTION COMPLETED BY PHONE

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FOR ACTION
HOFMANN

FOR CONCURRENCE
BAKER
BUSBY
CLARKE
RUDMAN

FOR INFO
DOBBINS
SCHWARTZ

COMMENTS: *** DUE 4 MAR @ NOON ***

*OBE. Democracy provided
comments directly to OMB.*
Karl Hofmann
2/5/98

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DOC 1 OF 1

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1528

Total Pages: _____

LRM ID: IMS250

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001**

Friday, February 27, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: James J. Jukes (for) Assistant Director for Legislative Reference

OMB CONTACT: Ingrid M. Schroeder

PHONE: (202)395-3883 **FAX:** (202)395-3109

SUBJECT: **OMB Request for Views on S1504 Haitian Refugee Immigration Fairness Act of 1997**

DEADLINE: Noon Wednesday, March 4, 1998

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: The Senate Judiciary Committee has scheduled a markup of S. 1504 for March 10th.
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LRM ID: IMS250 SUBJECT: OMB Request for Views on S1504 Haitian Refugee Immigration Fairness Act of 1997

**RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM**

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
- (2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Ingrid M. Schroeder Phone: 395-3883 Fax: 395-3109
 Office of Management and Budget
 Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

- _____ Concur
- _____ No Objection
- _____ No Comment
- _____ See proposed edits on pages _____
- _____ Other: _____
- _____ FAX RETURN of _____ pages, attached to this response sheet

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Next Hit	Forward	<u>New Search</u>
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	Doc Contents	

Jim - I'll discuss m/ Bushy before giving views to OMB.

GPO's PDF version of this bill	References to this bill in the Congressional Record	Link to the Bill Summary & Status file.	Download this bill. (9,710 bytes).
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Haitian Refugee Immigration Fairness Act of 1997 (Introduced in the Senate)

S 1504 IS

105th CONGRESS

1st Session

S. 1504

What does it say? MAR - 3 1998

Thoughts? K

To adjust the immigration status of certain Haitian nationals who were provided refuge in the United States.

IN THE SENATE OF THE UNITED STATES

November 9, 1997

Mr. GRAHAM (for himself, Mr. MACK, Mr. KENNEDY, Mr. ABRAHAM, and Ms. MOSELEY-BRAUN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

All Haitians in the US one year or more, who filed for asylum or was paroled before 12/31/95, can stay.

A BILL

To adjust the immigration status of certain Haitian nationals who were provided refuge in the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Haitian Refugee Immigration Fairness Act of 1997'.

SEC. 2. ADJUSTMENT OF STATUS OF CERTAIN HAITIAN NATIONALS.

(a) Adjustment of Status-

(1) IN GENERAL.- Notwithstanding section 245(c) of the Immigration and Nationality Act, the status of any alien described in subsection (b) shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if the alien--

(A) applies for such adjustment before April 1, 2000; and

On at list to El Salvador Guatemala

I suppose relevant question is how does this relate to Nicaragua relief. I'll ask Scott.

MAR - 3 1998

(B) is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), and (7)(A) of section 212(a) of the Immigration and Nationality Act shall not apply.

(2) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS- An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition on submitting or granting such application, to file a motion to reopen, reconsider, or vacate such order. If the Attorney General grants the application, the Attorney General shall cancel the order. If the Attorney General renders a final administrative decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS- The benefits provided by subsection (a) shall apply to any alien who is a national of Haiti--

(1) who filed for asylum before December 31, 1995, or was paroled into the United States prior to December 31, 1995, after having been identified as having a credible fear of persecution, or paroled for emergent reasons or reasons deemed strictly in the public interest, and

(2) has been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for such adjustment is filed, except an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any periods in the aggregate not exceeding 180 days.

(c) Stay of Removal-

(1) IN GENERAL- The Attorney General shall provide by regulation for an alien subject to a final order of deportation or removal or exclusion to seek a stay of such order based on the filing of an application under subsection (a).

(2) DURING CERTAIN PROCEEDINGS- Notwithstanding any provision of the Immigration and Nationality Act, the Attorney General shall not order any alien to be removed from the United States, if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and raises as a defense to such an order the eligibility of the alien to apply for adjustment of status under subsection (a), except where the Attorney General has rendered a final administrative determination to deny the application.

(3) WORK AUTHORIZATION- The Attorney General may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with an 'employment authorized' endorsement or other appropriate document signifying authorization of employment, except that if such application is pending for a period exceeding 180 days, and has not been denied, the Attorney General shall authorize such employment.

(d) ADJUSTMENT OF STATUS FOR SPOUSES AND CHILDREN-

(1) IN GENERAL- Notwithstanding section 245(c) of the Immigration and Nationality Act, the status of an alien shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if--

(A) the alien is a national of Haiti;

(A) the alien is a national of Haiti;

(B) the alien is the spouse, child, or unmarried son or daughter, of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a),

except that in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that they have been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for such adjustment is filed.

(C) the alien applies for such adjustment and is physically present in the United States on the date the application is filed; and

(D) the alien is otherwise eligible to receive an immigration visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for exclusion specified in paragraphs (4), (5), (6)(A), and (7)(A) of section 212(a) of the Immigration and Nationality Act shall not apply.

(2) **PROOF OF CONTINUOUS PRESENCE-** For purposes of establishing the period of continuous physical presence referred to in paragraph (1)(B), an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any periods in aggregate not exceeding 180 days.

(e) **AVAILABILITY OF ADMINISTRATIVE REVIEW-** The Attorney General shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to--

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act; or

(2) aliens subject to removal proceedings under section 240 of such Act.

(f) **LIMITATION ON JUDICIAL REVIEW-** A determination by the Attorney General as to whether the status of any alien should be adjusted under this section is final and shall not be subject to review by any court.

(g) **NO OFFSET IN NUMBER OF VISAS AVAILABLE-** When an alien is granted the status of having been lawfully admitted for permanent resident pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act.

(h) **APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS-** Except as otherwise specifically provided in this Act, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this Act shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

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