



U.S. Immigration  
and Customs  
Enforcement

Ms. Cheryl Little  
Executive Director  
Florida Immigrant Advocacy Center  
3000 Biscayne Boulevard  
Suite 400  
Miami, Florida 33137

FEB 25 2009

Dear Ms. Little:

Thank you for your January 26, 2009, letter to Janet Napolitano, Secretary of Homeland Security (DHS), concerning a request for a stay of deportations to Haiti and a request for review of the denial of Temporary Protected Status (TPS) designation for Haiti by former Secretary of Homeland Security Michael Chertoff. Your letter was referred to U.S. Immigration and Customs Enforcement (ICE), within DHS, for response.

Secretary Napolitano's authority to designate a country (or a part thereof) for TPS is based upon narrow criteria defined in section 244 of the Immigration and Nationality Act (INA), 8 U.S.C. § 1254a. Following the Secretary's determination to designate a country for TPS, an individual must demonstrate his or her personal eligibility for TPS under the TPS statute and its implementing regulations in 8 C.F.R. Part 244 before the benefit can be granted. TPS beneficiaries may also receive employment authorization documentation and are not subject to detention and removal while maintaining valid TPS.

In determining whether to designate a country for TPS, the Secretary must first consult with "appropriate agencies of the Government." See INA § 244(b)(1). After consultation with the appropriate Government agencies, the Secretary has the discretionary authority to provide temporary protection in the United States to nationals of a foreign state (or persons without nationality who last habitually resided in that state) where certain criteria in the governing TPS statute are met. In making the determination on a country designation, the Secretary considers whether there: (1) is ongoing armed conflict within the foreign state posing a serious threat to the personal safety of the foreign state's nationals if they are returned there; (2) has been a natural event, such as an earthquake, flood, drought, epidemic or other environmental disaster resulting in a substantial, but temporary, disruption of the living conditions in the area affected, the foreign state is unable, temporarily to handle adequately the return of its nationals, *and* the foreign state has officially requested TPS designation; or (3) exist extraordinary and temporary conditions in the foreign state that prevent nationals from returning safely, unless the Secretary finds that permitting a country's nationals to remain in the United States is contrary to the national interest of the United States. See INA § 244(b)(1)(A-C).

The administration is concerned for nationals of Haiti affected by the recurring natural disasters that have struck Haiti over the past several years and the consequent economic tensions that have followed. The United States remains committed to working closely with the Government of Haiti (GOH) and the United Nations, the Organization of American States, and the international community to address the humanitarian and security concerns facing Haiti. Since fiscal year 2004, the U.S. Government has allocated nearly \$400 million in assistance to Haiti, including

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\$64 million for disaster relief following Tropical Storm Jeanne and Hurricane Dennis and, more recently, \$200,000 to the International Committee of the Red Cross in support of its humanitarian programs in Haiti. The assistance has provided jobs, vocational training, food assistance, and medical care, as well as technical advice and budget support to the GOH. The U.S. Government has also supported democracy-building projects and law enforcement training in Haiti.

At this time, DHS intends to continue to coordinate the removal of Haitian nationals to Haiti with the GOH. In the fall of 2008, ICE temporarily postponed removals to Haiti in the wake of a series of storms that affected Haiti. This was just one of a number of actions taken by DHS to help mitigate the effects of the storms. ICE's decision to resume repatriations to Haiti, has been and will continue to be, conducted in close consultation with the GOH.

Thank you for your interest in this matter. I look forward to working with you on future homeland security issues. If I may be of further assistance, please contact me at (202) 732-4254 or Andrew Strait, Acting ICE Community Outreach Coordinator, at (202) 732-4262.

Sincerely,



Susan Cullen  
Director  
Office of Policy and Planning