

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 19 OCTOBER 2010

IMMIGRATION AND CITIZENSHIP PORTFOLIO

(130) Program 2.1: Refugee and Humanitarian Assistance

Senator Abetz asked:

- 1) What standards must refugees meet to be accorded UNHCR refugee status?
- 2) Do these standards vary from country to country?
- 3) Are these standards applied consistently by different countries: if not, what differences in application of these standards is the Department aware of in countries transited by refugees to Australia?
- 4) For each such country, does Australia automatically accept the validity of UNHCR status granted there: if so, why; if not, why not?
- 5) How do such standards compare to the standards Australia applies in assessing UNHCR status?

Answer:

- 1) The *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (the Refugees Convention) set out the criteria for determining whether an individual is a refugee.

The Refugees Convention defines a refugee as “a person who is outside his or her country of nationality or habitual residence; has a well-founded fear of persecution because of his or her race, religion, nationality, membership of a particular social group or political opinion; and is unable or unwilling to avail himself or herself of the protection of that country, or to return there, for fear of persecution’.

The UNHCR *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees* (revised January 1992) provides further guidance on the criteria for determining that an individual is a refugee.

The UNHCR conducts refugee status determinations for individuals seeking protection in some countries, generally in countries not signed up to the Refugees Convention. Those found to be refugees are afforded UNHCR ‘mandate status’.

2) The Refugees Convention (both the 1951 Convention and its 1967 Protocol) has been signed and ratified by 144 states. The definition of a 'refugee' contained within the Refugees Convention is binding on member states. The Refugees Convention definition is also the basis of practice in non-signatory states.

3) The definition of a refugee as set out in the Refugees Convention is broadly accepted, and used as the basis for refugee status determinations, internationally.

The UNHCR conducts refugee status determinations in some transit countries in our region, including Indonesia and Malaysia.

4) Australia conducts its own assessment of asylum seekers mandated by the UNHCR to be refugees for several reasons, including:

- the passage of time between obtaining mandate status and applying for protection in Australia may mean circumstances have changed; and
- there may be other information which has come to light after the person was mandated.

5) Both Australia and the UNHCR assess individuals against the criteria in the Refugees Convention.