

Chairperson
of the Immigration and
Refugee Board of Canada



Président
de la Commission de l'immigration
et du statut de réfugié du Canada

Ottawa, Canada K1A 0K1

May 12, 2022

Mr. John Williamson, M.P.
Chair, Standing Committee on Public Accounts
131 Queen Street, 6th Floor
House of Commons
Ottawa ON K1A 0K1
Canada

Dear Mr. Williamson:

I am writing further to your letter dated April 4, 2022 seeking additional information regarding the government's response to recommendations 1 and 5 of *Report 10 (43rd Parliament, 2nd Session) Request for Government Response to the 69th Report for the 42nd Parliament 1st Session, Processing of Asylum Claims*.

Below please find additional information and an update regarding the two recommendations in question.

Recommendation 1 – on a flexible funding model

“That, by December 30 2019, the Canada Border Services Agency, Immigration, Refugees and Citizenship Canada, and the Immigration and Refugee Board of Canada provide the House of Commons Standing Committee on Public Accounts with a report outlining the progress of developing a business case with the Government of Canada's central agencies to design and implement a flexible funding model that allows access to additional funding quickly to better match shifting volumes of claims.”

I understand that the Committee is looking for an update on the status of this matter and for a better understanding of the Immigration and Refugee Board (the IRB or the Board)'s role in the context of developing and implementing such a flexible funding model.

In the lead up to Budget 2022, IRB officials met with central agencies, including the Department of Finance, Treasury Board and the Privy Council Office, with a view to: (1) raising awareness of the current operating context of Canada's asylum system, including case inventories and wait times for refugee claimants; (2) reinforcing the

importance of stabilizing the organization and making permanent those funds which had previously been provided to the IRB through Budgets 2018-2021 on a temporary basis, and the impact of those funds otherwise sunsetting in fiscal year 2023-24; and (3) identifying implications associated with providing further flexibility with additional funds to account for increasing volumes of asylum claims at the IRB.

Budget 2022 announced ongoing funding for the IRB of \$150M/year beginning in fiscal year 2023-24. This announcement made permanent those investments previously provided to the Board through recent Budgets on a temporary basis and allows the IRB to continue to process up to 50,000 refugee claims per year. In addition, Budget 2022 announced a further, temporary, investment of \$87M over two (2) years, beginning in fiscal year 2022-23, for the purpose of hiring additional staff to process an additional 10,000 refugee claims over a two-year period (2,500 in year 1 and 7,500 in year 2).

The purpose of a flexible funding model is to allow the IRB the flexibility to access additional funding more quickly to better align processing capacity with quickly shifting volumes of claims received in a given year. The additional “top up” monies announced in Budget 2022 provides the IRB with additional flexibility to hire decision makers and other staff to help address forecasted rises in asylum claims. The ability and timing for the IRB to access this temporary “top up” fund and spend the identified monies is of course still subject to Parliamentary approval.

Recommendation 5 – on expediting protection decisions

“That, by 30 April 2020, the Immigration and Refugee Board of Canada provide the House of Commons Standing Committee on Public Accounts with a report outlining what objectives have been met with regard to expediting protection decisions for eligible asylum claimants.”

I understand that the Committee seeks an update on the IRB’s objectives with respect to expediting protection decisions for eligible asylum claimants, including key performance indicators.

In 2018, I established a Task Force on Less Complex Claims (TFLCC) as a mechanism to fast-track refugee protection claims. Its objectives were and remain two-fold: (1) to reduce the inventory of refugee claims from what it would otherwise be without such a fast track mechanism and (2) to reduce claimant wait times, while maintaining quality decision-making and overall system integrity.

The Task Force is a case management initiative which allows for certain claims to be granted a positive decision without holding a hearing, or to proceed with a short hearing if only one or two issues need to be resolved. Decisions to include a particular country of origin or type of claim under the Task Force process are based on several assessments, including conditions relating to human rights, political activity and legal systems. If there are more complicated questions of credibility or identity, then such cases will not be addressed as a less complex claim and the claim will proceed to a regular hearing.

The Task Force has met identified objectives since its inception and continues to expedite protection decisions through a fast track process. We are pleased to share the following performance metrics:

Overall, since April 1, 2019, the IRB has decided 22,755 less complex claims, or approximately 19% of over 120,000 refugee claims decided. For fiscal year 2021-22, the IRB set a target of finalizing at least 4,000 decisions for less complex claims, based on an assessment of the composition of its claim inventory and pandemic-related migration trends. The IRB projected the number of less complex claims available for decision during the year in the context of advancing the IRB's broader case management priorities – including system integrity, fairness, and access to justice – and aligned its target accordingly as part of an overall performance metric of finalizing 45,000-50,000 refugee claims this past fiscal year. The Task Force met the established target, finalizing 6,725 less complex claims, and the Board met its overall target by finalizing more than 48,000 refugee claims.

Analysis of the work performed by the Task Force over the past three years confirms that it has met operational objectives related to the reduction of the claim inventory and average wait times. IRB adjudicators were able to process over 50% more files (average of 6.5 per week) when concentrated on less complex claims, compared with those focused on other claims. The processing time for less complex claims was 11 months, compared with 22 months for other claims. A less complex claim referred in April 2022 has a projected processing time of 6 to 8 months. Hearings identified as less complex last an average of approximately 1.5 hours, compared with over 2.0 hours for other claims. 72% of decisions on less complex claims were finalized without a hearing, and 28% were decided with a short hearing. The IRB issued a positive decision in 88% of less complex claims, compared with 53% for other claims.

The Task Force continues to build on its success through exploring additional opportunities for efficiencies. For example, it reviewed the *Instructions Governing the Streaming of Less Complex Claims* to ensure alignment of adjudicative resources to the complexity of each claim. Following this review, the Task Force established an ongoing process to assess country conditions and migration trends to establish whether additional countries or claim types could be streamed into the less complex process. In this respect, the Task Force actively monitors trends in hearing outcomes for countries and claim types – in particular, those with an acceptance rate of 80% or higher – and redirects suitable files for decisions without a hearing or for short hearings. As the Refugee Protection Division of the IRB may consider any claim for less-complex processing, claimants and counsel play an important role, including bringing specific claims to the Board's attention and providing supporting evidence. Through this ongoing review and stakeholder engagement, the Task Force has broadened the use of less complex processes well beyond the countries eligible for fast-tracking under the former *Policy on the Expedited Processing of Refugee Claims*. It has done so while preserving program integrity and public confidence. No claim is decided without confirmation of front-end security screening or where the Minister has filed a Notice of Intervention to

intervene in person. The IRB takes public safety seriously and protecting the safety and security of Canadians continues to govern our policy and program development.

The Task Force is one of the Board's many measures recently introduced to efficiently address rising operational demands and strategic case management objectives. For example, the Board seized the opportunity to become a digital organization during the pandemic and, by January 2021, had adopted a "virtual by default" hearings operating model to better deliver access to justice, including by digitizing all files and correspondence; strengthened training of its adjudicators to preside over shorter refugee protection hearings and issue timelier decisions; and supported the Integrated Claim Analysis Centre piloted by Immigration, Refugees and Citizenship Canada (IRCC) and the Canada Border Services Agency (CBSA) to optimize the triaging and scheduling of refugee claims that are identified as "hearing ready".

On a more general note, I am pleased to share that the IRB has reduced its inventory of refugee claims over the past few years. Pending refugee claims have been reduced by 27% from 74,219 on April 1, 2019 to 54,061 as of April 1, 2022. Expected wait times for a refugee protection decision have decreased 32% from 18 months for claims referred in April 2019 to 13 months for claims referred in April 2022. The Refugee Protection Division finalized 48,054 claims in the 2021-2022 fiscal year – more than in any other fiscal year in its history – and decreased the inventory by 23% compared to April 2021. The Refugee Appeal Division finalized over 11,000 appeals in the 2021-22 fiscal year, also representing the most appeals ever finalized since its inception in 2012, decreased its inventory to 4,800 appeals and reduced wait times to six months.

Considering current migration trends, the number of refugee claims referred to the IRB is projected to increase. Recently announced investments in Budget 2022 will assist the IRB in addressing increased volumes, allowing it to continue to process up to 50,000 refugee claims per year and an additional 10,000 claims over two years. The IRB will continue to identify and implement measures to expedite eligible refugee claims as part of its mandate to resolve cases efficiently, fairly and in accordance with the law.

I trust the above information is helpful.

Yours truly,

A handwritten signature in blue ink, appearing to read "R. Wex".

Richard Wex
Chairperson

c.c.: Caroline Xavier, Acting Deputy Minister
Immigration, Refugees and Citizenship Canada