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WASHINGTON, DC 20510-6275

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August 3, 2011

The Honorable Hillary Clinton
Secretary of State
Department of State
2201 C Street NW
Washington, DC 20520

The Honorable Eric Holder Jr.
Attorney General
Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Madam Secretary and Mr. Attorney General:

I write to express my deep concern that the current interpretation of the law governing material support for terrorism is prohibiting organizations from delivering essential humanitarian relief in the Horn of Africa. I have long advocated for reform of this overly broad law, but the famine and resulting humanitarian crisis in Somalia demands immediate action.

Relief organizations, desperately trying to meet the need for food and medical care, fear that their staff members could be prosecuted under the material support law if some aid ultimately – and unintentionally – ends up in the hands of al-Shabab, an al Qaeda affiliate that is designated by the Department of State as a foreign terrorist organization. I understand that the Department of State took steps yesterday to ameliorate the concerns of relief organizations, but the Department declined to explain publicly what those steps include. I urge you to exercise the authority provided in law to grant exemptions to relief organizations focused on responding to this urgent humanitarian crisis, with no intent to engage in terrorist activity, such that this aid can immediately reach as many Somalis as possible.

The material support law not only imposes unintended constraints on legitimate humanitarian assistance efforts, it also limits the actions of individuals and non-governmental organizations engaged in unofficial diplomacy and peace building. These actors often engage in informal negotiations that serve United States interests, and have no intent to support terrorist movements. I am concerned that they are unduly constricted as a consequence of the Supreme Court's 2010 ruling in *Holder v. Humanitarian Law Project*. A number of individuals and organizations have expressed uncertainty over the scope of permitted activity under the law, and have sought clarification from the Departments of State and Justice.

In addition to taking immediate action with respect to aid to Somalia, and in order to address the broader impact of current law, I urge you to facilitate a dialogue between relevant executive branch agencies and affected organizations and individuals. The result of this dialogue should be the release of a set of guidelines that remove the uncertainty with the scope of the material support law, and the establishment a process by which actors may seek exemptions.

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The humanitarian needs of the world and the security of the United States are both served by enabling non-governmental actors to fulfill their missions. We must not impede the efforts of individuals and organizations that have no intent to provide material support for terrorism, and whose activities serve the goals of the United States.

I appreciate your attention to this matter.

Sincerely,



PATRICK LEAHY
Chairman