

## 8.3 Lack of Knowledge Exceptions

### 8.3.1 Exception for Tier IIIs Only (Membership, Solicitation and Material Support)

There is an exception for some of the TRIG provisions related to Tier III organizations if the applicant can “demonstrate by clear and convincing evidence that he did not know, and reasonably should not have known, that the organization was a terrorist organization.”<sup>69</sup> This lack of knowledge exception refers to knowledge of the group’s activities, and in particular, knowledge that the group engages in activities of the type that qualify as “engaging in terrorist activity” under INA § 212(a)(3)(B)(iv). The applicant does not, however, need to know that the group meets the definition of an undesignated terrorist organization under INA § 212(a)(3)(B)(vi)(III) to be found inadmissible.<sup>70</sup>

This exception applies to:

- members of;
- those who solicit funds, things of value, or members for; and
- those who provide material support to;

Tier III terrorist organizations only.

If the applicant can show by “clear and convincing” evidence that he or she did not know, and should not reasonably have known, that the organization was a terrorist organization,<sup>71</sup> these grounds of inadmissibility do not apply. Note that there is both a subjective (did not know) and an objective (should not reasonably have known) component to this exception.

“Clear and convincing” evidence is that degree of proof, that, though not necessarily conclusive, will produce a “firm belief or conviction” in the mind of the adjudicator.<sup>72</sup> It is higher than the “preponderance of the evidence” standard, and lower than “beyond a reasonable doubt.”<sup>73</sup>

<sup>69</sup> INA §§ 212(a)(3)(B)(i)(VI), (B)(iv)(IV)(cc), (B)(iv)(V)(cc), (B)(iv)(VI)(dd).

<sup>70</sup> *American Academy of Religion v. Napolitano*, 573 F.3d 115, 132 (2d. Cir. 2009).

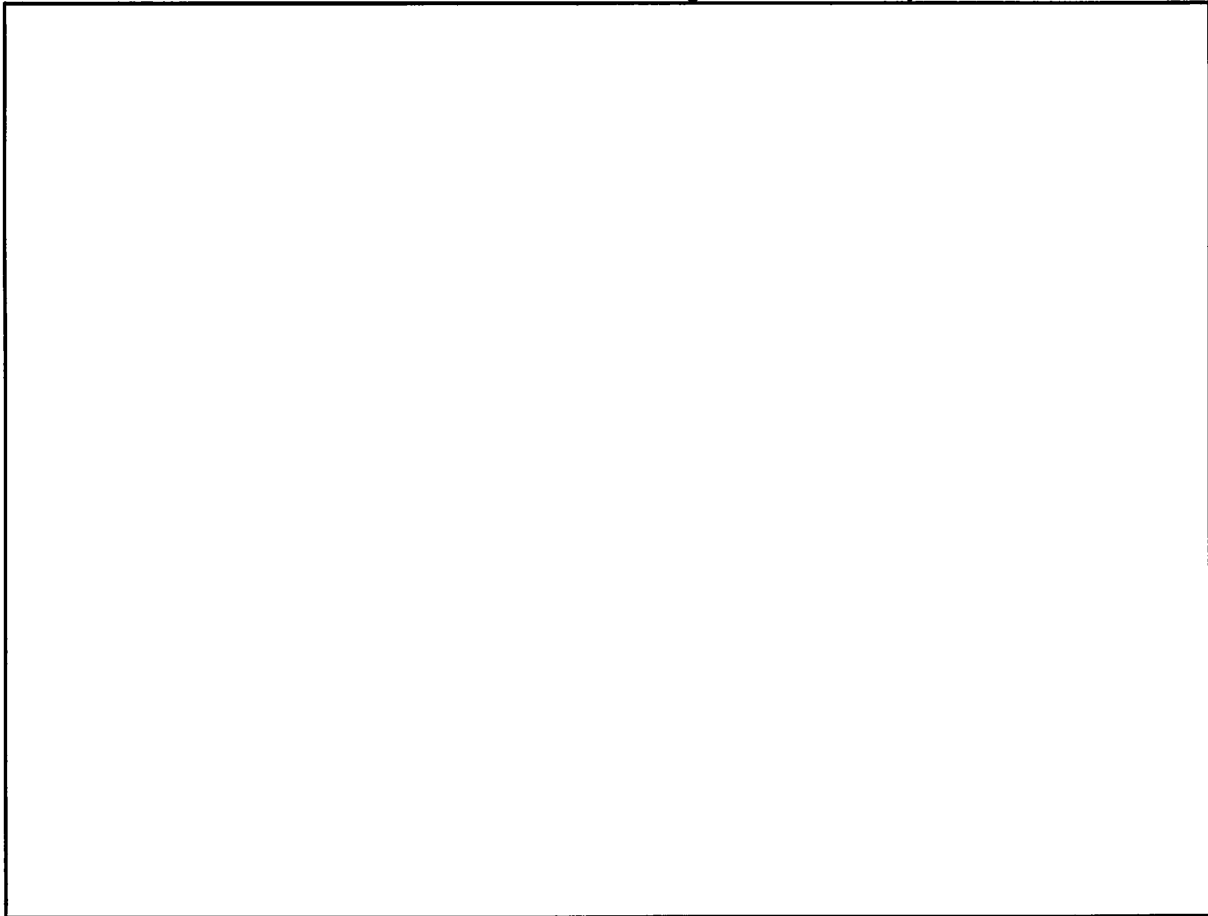
<sup>71</sup> INA § 212(a)(3)(B)(iv)(VI)(dd); see Section 7.4, below: Undesignated Terrorist Organization (Tier III); see also *Matter of S-K-*, 23 I&N Dec. at 941-942; *Viegas*, 699 F.3d at 802-803 (upholding the BIA’s finding that the applicant “reasonably should have known” his organization was engaged in violent activities despite his lack of specific information about his own faction); *Khan*, 584 F.3d at 785 (holding that the applicant’s admission that he knew a wing of his organization was dedicated to armed struggle and evidence of media reports of violent attacks committed by his organization were sufficient to support a finding that he knew or reasonably should have known it was a terrorist organization).

<sup>72</sup> *Matter of Carrubba*, 11 I&N Dec. 914, 917-18 (BIA 1966); see also *Matter of Patel*, 19 I&N Dec. 774, 783 (BIA 1988).

<sup>73</sup> For more information about standards and burdens of proof, see RAIIO Training module, Evidence.

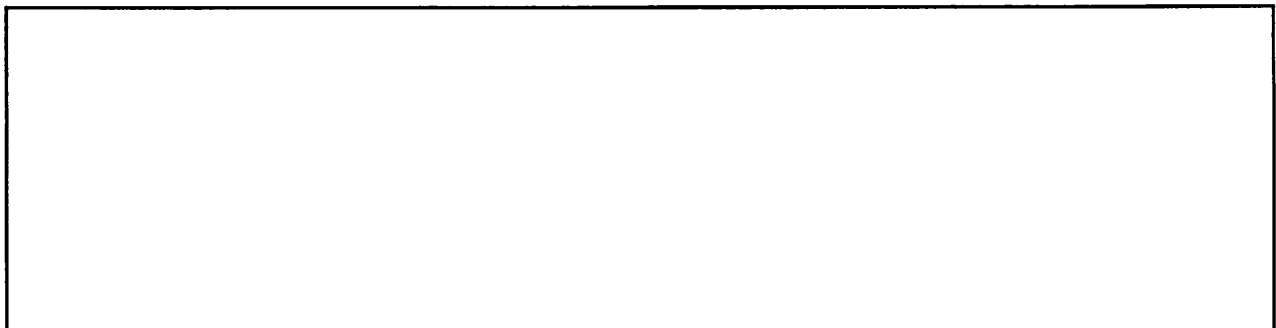
This exception does not apply to Tier I or Tier II organizations. This exception also does not apply to “representatives” of undesignated terrorist organizations.<sup>74</sup>

In order to determine whether a lack of knowledge is reasonable, you must consider:

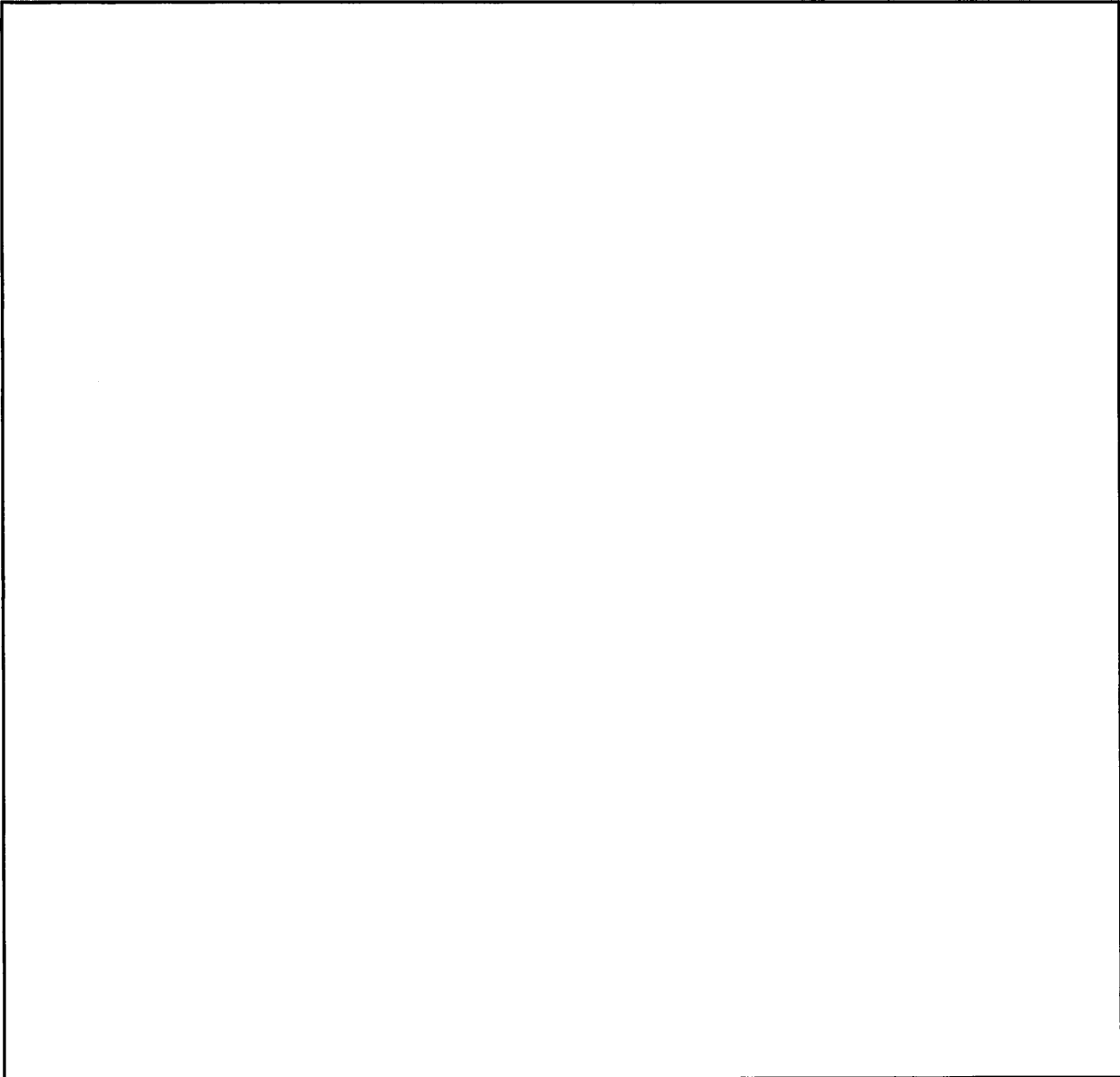


**8.3.2 Exception for All Tiers (Material Support Only)**

Additionally, under the material support provision, INA § 212(a)(3)(B)(iv)(VI), there is an exception that if the applicant did not know or reasonably should not have known that he or she *afforded material support*, the applicant would not be inadmissible.



<sup>74</sup> INA § 212(a)(3)(B)(v) (“Representative” defined).



**9 TRIG EXEMPTION AUTHORITY**

**9.1 General**

INA § 212(d)(3)(B)(i), as created by the 2005 REAL ID Act and revised by the Consolidated Appropriations Act, 2008, includes a discretionary exemption provision for certain INA § 212(a)(3)(B) grounds of inadmissibility. This exemption authority can be

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<sup>75</sup> This exception may only be applicable when the applicant provided something that has no apparent value. However, there is no exception for material support that is of minimal value.

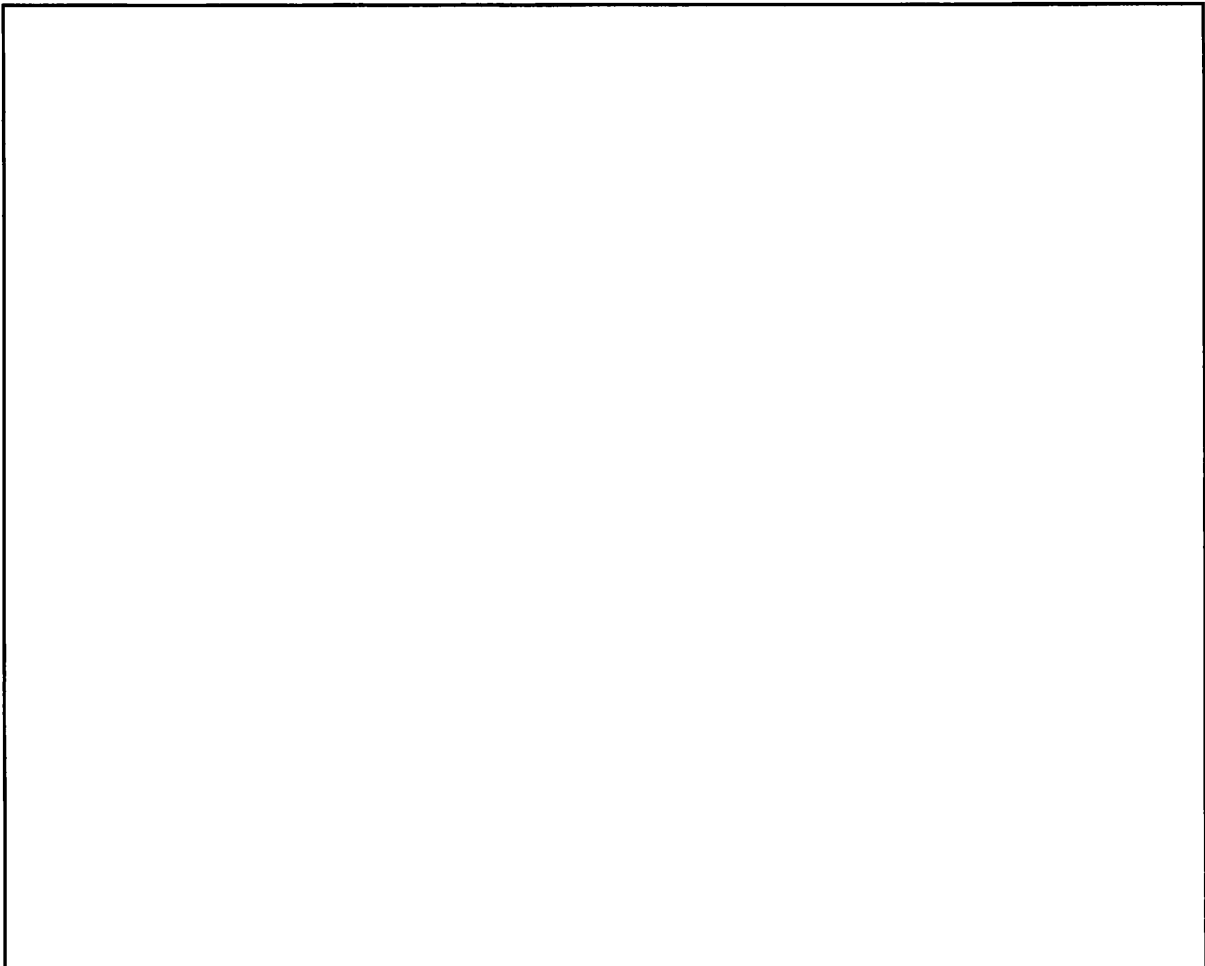
exercised by the Secretary of Homeland Security or the Secretary of State after consultation with each other and the Attorney General.<sup>76</sup>

Exemptions issued to date fall into one of three categories: “group-based” exemptions, which pertain to associations or activities with a particular group or groups; “situational” exemptions, which pertain to a certain activity, such as providing material support or medical care; and “individual” exemptions, which pertain to a specific applicant.

Once the Secretary of Homeland Security signs a new exemption authority, USCIS releases the exemption document along with a corresponding policy memorandum, which provide further guidance to adjudicators on implementing the new discretionary exemption.

In each of the exercises of exemption authority to date that are either group-based or situational, the Secretary of Homeland Security delegated to USCIS the authority to determine whether a particular alien meets the criteria required for the exercise of the exemption.

(b)(7)(c)



<sup>76</sup> INA § 212(d)(3)(B)(i). For some specific examples of the Secretary’s exercise of discretion under this provision, see USCIS [Fact Sheets](#).

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**9.2 Criteria**

**9.2.1 Threshold Requirements**

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<sup>77</sup> If you have questions about whether an applicant poses a danger to the safety and security of the United States, consult with a local Fraud Detection and National Security (FDNS) IO and/or your supervisor in accordance with local operating procedures.

<sup>78</sup> The existing exercises of authority and policy memoranda for TRIG exemptions can be found on the [TRIG Exemptions page](#) of the [USCIS TRIG ECN](#).

**9.2.2 Specific Additional Exemption Requirements**

(b)(7)(e)

**9.2.3 Totality of the Circumstances**

**9.3 Group-Based Exemptions**

**9.3.1 Named Groups in the Consolidated Appropriations Act, 2008 (CAA)**

As explained in Section 6.5 above, the Consolidated Appropriations Act, 2008 (CAA) named ten groups that are excluded from the definition of a “terrorist organization.” The ten groups are comprised of six ethnic rebel groups in Burma, two U.S.-backed anti-Viet Cong groups, the CIA-backed Tibetan resistance group based in Mustang, and the anti-Castro Alzados in Cuba. The African National Congress (ANC), an anti-apartheid South African party, was added to the CAA groups through a subsequent amendment. The language of the CAA’s exclusion provides that the named groups “shall not be considered” terrorist organizations on the basis of any act or event that occurred prior to December 26, 2007.<sup>79</sup>

The CAA’s statutory exclusion only partially mitigated the immigration consequences for applicants who have activities and/or associations with the CAA groups. Applicants who would otherwise have been inadmissible for their activities and/or associations with a

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<sup>79</sup> Consolidated Appropriations Act, 2008, *supra*, note 8, § 691(b).

CAA group will receive “automatic relief” from any TRIG provision in which the term “terrorist organization” is an element. However, automatic relief does not cover the TRIG provisions in which the term “terrorist organization” is not an element. As a consequence, group exemptions were authorized for certain “covered activities” in connection with the ten groups named in the CAA.<sup>80</sup>

**Automatic relief:** The CAA groups are not considered “terrorist organizations” per the CAA. As such, the TRIG provisions that include the term “terrorist organization” will not apply to applicants with activities and/or associations with the CAA groups. This is referred to as “automatic relief.” A TRIG exemption worksheet is not required.

**Time limitation to automatic relief:** As a result of the statutory construction of the CAA’s exclusion, any of the named groups that have re-engaged in “terrorist activity” on or after December 26, 2007 will no longer be covered by the CAA exclusion as of that date. In other words, if any of the CAA groups commits a terrorist activity on or after December 26, 2007, it will be considered a Tier III undesignated terrorist organization as of that date. According to reporting, the KNU/KNLA, KNPP, and ALP have re-engaged in terrorist activity.

**CAA group-based exemptions:** The following group-based exemption authorities were authorized in addition to the “automatic relief” provisions of the CAA.

- Date authorized: June 18, 2008 (separate exemptions authorized for each of the ten CAA groups)
- Groups included:
- Karen National Union/Karen National Liberation Army (KNU/KNLA)
  - Chin National Front/Chin National Army (CNF/CNA)
  - Chin National League for Democracy (CNLD)
  - Kayan New Land Party (KNLP)
  - Arakan Liberation Party (ALP)
  - Tibetan Mustangs
  - Cuban Alzados (groups opposed to the Communist government of Cuba)
  - Karenni National Progressive Party (KNPP)
  - appropriate groups affiliated with the Hmong
  - appropriate groups affiliated with the Montagnards (includes the Front Unifié de Lutte des Races Opprimées (FULRO))

<sup>80</sup> See 73 Fed. Reg. 34770-34777 (June 18, 2008); see also Memorandum to Associate Directors, et al., Implementation of Section 691 of Division J of the Consolidated Appropriations Act, 2008, and Updated Processing Requirements for Discretionary Exemptions to Terrorist Activity Inadmissibility Grounds, Michael L. Aytes, Acting Deputy Director, USCIS (July 28, 2008).

### 9.3.2 Iraqi Group Exemptions and the National Defense Authorization Act of 2014 (NDAA)

As explained in Section 6.5 above, two Iraqi groups were excluded from the definition of a “terrorist organization” by the National Defense Authorization Act for Fiscal Year 2015 (NDAA): the Kurdish Democratic Party (KDP), led by Masoud Barzani, and the Patriotic Union of Kurdistan (PUK), led by Jalal Talabani.

Unlike the CAA, the NDAA excluded the KDP and PUK from the definition of a terrorist organization without any conditions or restrictions, meaning that the exclusion applies at all times – past, present, and future. Applicants who would otherwise have been inadmissible for their activities and/or associations with the KDP or PUK will receive “automatic relief” from any TRIG provision in which the term “terrorist organization” is an element. However, automatic relief does not cover the TRIG provisions in which “terrorist organization” is not an element.

**Automatic relief:** The KDP and PUK are not considered “terrorist organizations” as per the NDAA. As such, the TRIG provisions that include the term “terrorist organization” will not apply to applicants with activities and/or associations with the KDP or PUK. This is referred to as “automatic relief.” A TRIG exemption worksheet is not required. For any TRIG activity related to the KDP or PUK that is not covered by automatic relief, a group exemption is available. (Note that automatic relief is not applicable to the Iraqi National Congress, although it has a group exemption, as explained below.)

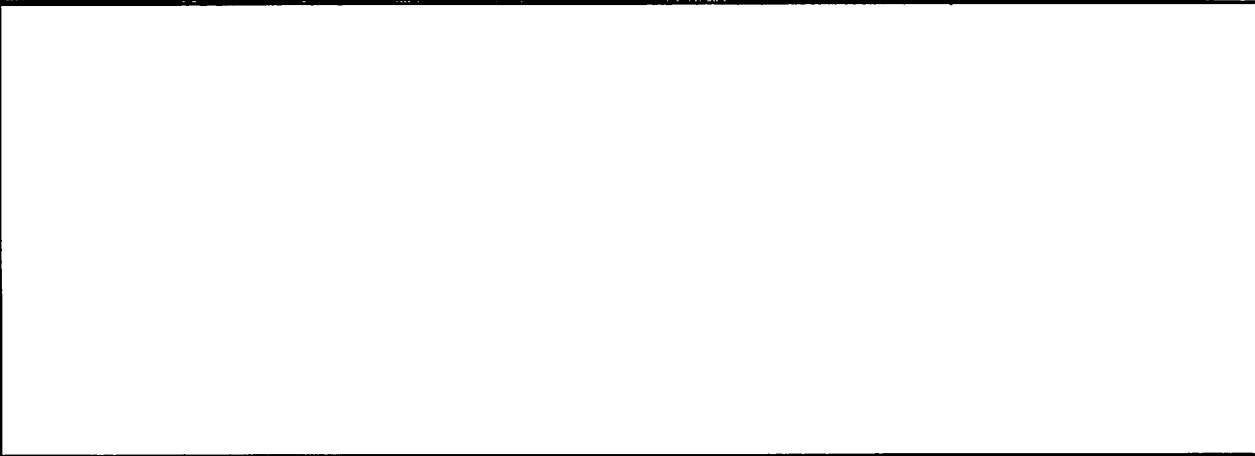
**Iraqi group-based exemptions:** The following group-based exemption authorities were authorized in addition to the “automatic relief” provisions for the KDP and PUK.

Date authorized: September 21, 2009<sup>81</sup> (separate exemptions authorized for the three groups)


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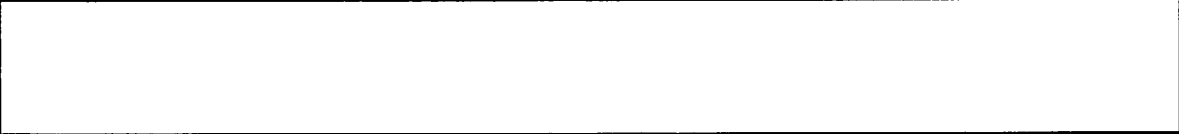
<sup>81</sup> See Memorandum to USCIS Field Leadership, Implementation of New Discretionary Exemption under INA Section 212(d)(3)(B)(i) for Activities Related to the INC, KDP, and PUK, Lauren Kielsmeier, Acting Deputy Director, USCIS (January 2010).





**Additional requirements:** The applicant must not have participated in, or knowingly provided material support to, terrorist activities that targeted noncombatant persons.

The INC meets the definition of a Tier III terrorist organization due to its activities in opposition to Saddam Hussein and Baath Party rule, as did the KDP and PUK prior to their statutory exclusion from the definition by the NDAA. 

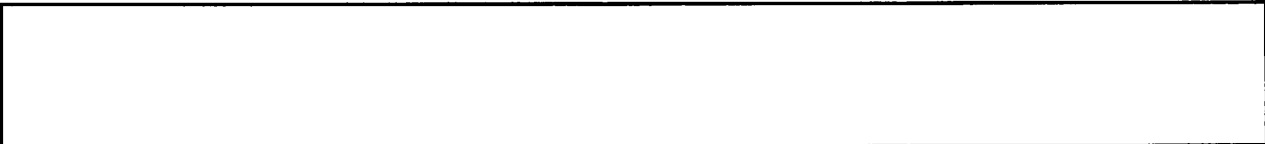


**9.3.3 All Burma Students' Democratic Front (ABSDF)**

**Date authorized:** December 16, 2010<sup>83</sup>

**Covered activity:** All activities and/or associations with ABSDF (except for current engagement or future intent to engage in terrorist activity)

**Additional requirements:** The applicant must not participated in, or knowingly provided material support to, terrorist activities that targeted noncombatant persons or U.S. interests.



<sup>83</sup> Exercise of Authority Under Sec. 212(d)(3)(B)(i) of the Immigration and Nationality Act, 76 Fed. Reg. 2131-01 (January 12, 2011); *see also* Policy Memorandum, Implementation of New Discretionary Exemption under INA Section 212(d)(3)(B)(i) for Activities and Associations Relating to the All Burma Students' Democratic Front (ABSDF), USCIS Office of the Director (PM-602-0025) (Dec. 29, 2010).

The ABSDF has operated for many years in defiance of Burma's military government through political activism and armed rebellion. Due to activities carried out by the organization, the ABSDF meets the definition of a Tier III terrorist organization.

### 9.3.4 Kosovo Liberation Army (KLA)

<u>Date authorized:</u>	June 4, 2012 <sup>84</sup>
<u>Covered activity:</u>	Solicitation, material support, and receipt of military-type training.
<u>Additional requirements:</u>	(1) The applicant must not have participated in, or knowingly provided material support to, terrorist activities that targeted noncombatant persons or U.S. interests; and (2) The applicant must not have been subject to an indictment by an international tribunal.

The KLA was an Albanian insurgent organization which sought the separation of Kosovo from Yugoslavia in the 1990s. Due to its activities, the KLA meets the definition of a Tier III terrorist organization.

### 9.3.5 AISSF-Bittu Faction

<u>Date authorized:</u>	October 18, 2010 <sup>85</sup>
<u>Covered activity:</u>	Material support
<u>Additional requirements:</u>	The applicant must not have not participated in, or knowingly provided material support to, terrorist activities that targeted noncombatant persons or U.S. interests.

The AISSF was initially formed in the early 1940s to help promote the Sikh religion and to establish an independent Sikh nation. The AISSF-Bittu Faction transformed itself from a militant outfit during the Sikh insurgency of the 1980s and early 1990s into something akin to an interest or lobbying group. Due to the violent activities carried out by the

<sup>84</sup> Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act, 77 Fed. Reg. 41895-01 (July 16, 2012), *see also* Policy Memorandum, Implementation of New Discretionary Exemption Under Immigration and Nationality Act (INA) Section 212(d)(3)(B)(i) for Activities and Associations Relating to the Kosovo Liberation Army (KLA), USCIS Office of the Director (PM-602-0068) (July 5, 2012).

<sup>85</sup> *See* Exercise of Authority Under INA § 212(d)(3)(B)(i), 76 Fed. Reg. 2130-02 (January 12, 2011); *see also* Policy Memorandum, Implementation of New Discretionary Exemption Under INA Section 212(d)(3)(B)(i) for Material Support to the All India Sikh Students Federation-Butti Faction (AISSF-Bittu), USCIS Office of the Director (PM-602-0024) (December 29, 2010).

organization, the AISSF-Bittu Faction meets the definition of a Tier III terrorist organization.

### 9.3.6 Farabundo Martí National Liberation Front (FMLN) and Nationalist Republican Alliance (ARENA)

Date authorized: April 3, 2013<sup>86</sup> (separate exemptions authorized for each group)

Covered groups:

- Farabundo Martí para la Liberación Nacional, or Farabundo National Liberation Front (FMLN)
- Alianza Republicana Nacionalista, or Nationalist Republican Alliance (ARENA)

Covered activity: All activities and/or associations with FMLN or ARENA (except for current engagement or future intent to engage in terrorist activity)

Additional requirements:

- (1) The applicant must not have participated in, or knowingly provided material support to, terrorist activities that targeted noncombatant persons or U.S. interests; and
- (2) The applicant must not have engaged in terrorist activity outside the context of civil war activities directed against military, intelligence, or related forces of the Salvadoran government.

The FMLN was formed in 1980 as a left-wing armed guerrilla movement, while the ARENA was formed in 1981 as a right-wing political party that used death squads to support its agenda. The two movements fought on opposite sides of the Salvadoran Civil War, and due to their violent activities, they met the definition of a Tier III organization during that time.

### 9.3.7 Oromo Liberation Front (OLF)

Date authorized: October 2, 2013<sup>87</sup>

<sup>86</sup> See Exercise of Authority Under INA § 212(d)(3)(B)(i), 78 Fed Reg. 24225-01 and 24225-02 (April 24, 2013); see also Policy Memorandum, Implementation of New Discretionary Exemption Under Immigration and Nationality Act (INA) Section 212(d)(3)(B)(i) for Activities and Associations Relating to the Farabundo Martí National Liberation Front (FMLN) or to the Nationalist Republican Alliance (Alianza Republicana Nacionalista, or ARENA), USCIS Office of the Director (PM-602-0082) (May 22, 2013).

<sup>87</sup> See Policy Memorandum, Implementation of New Discretionary Exemption under INA Section 212(d)(3)(B)(i) for Activities and Associations Relating to the Oromo Liberation Front (OLF), USCIS Office of the Director (PM-602-0096) (December 31, 2013).

- Covered activity:** Voluntary solicitation, material support, and military-type training.
- Additional requirements:**
- (1) The applicant must **either**:
    - have been admitted as a refugee, granted asylum, or had a pending asylum or refugee application on or before October 2, 2013;
    - or**
    - be the beneficiary of an I-730 Refugee/Asylee Relative Petition filed at any time by a petitioner who was admitted as a refugee or granted asylum on or before October 2, 2013;
  - (2) The applicant must not have participated in, or knowingly provided material support to, terrorist activities that targeted noncombatant persons or U.S. interests; and
  - (3) The applicant must not have engaged in terrorist activity outside the context of civil war activities directed against military, intelligence, or related forces of the Ethiopian government.

The OLF is an opposition group founded in 1973 which engaged in violent conflict with the Ethiopian government. It falls within the definition of a Tier III organization because of its violent activities.

### 9.3.8 Tigray People's Liberation Front (TPLF)

- Date authorized:** October 17, 2013<sup>88</sup>
- Covered activity:** Voluntary solicitation, material support, and military-type training.
- Additional requirements:** The applicant must not have participated in, or knowingly provided material support to, terrorist activities that targeted noncombatant persons or U.S. interests.

The TPLF is a political party founded in 1975 in Ethiopia, as an opposition group. It was engaged in violent conflict with the Ethiopian government from then until 1991. It qualified as a Tier III organization during that period because of its violent activities. On May 27, 1991, the TPLF, with other parties, succeeded in overthrowing the Ethiopian government and became part of the ruling coalition in the new government. Since that

<sup>88</sup> See Policy Memorandum, Implementation of New Discretionary Exemption under INA Section 212(d)(3)(B)(i) for Activities and Associations Relating to the Tigrayan People's Liberation Front (TPLF), USCIS Office of the Director (PM-602-0101) (June 15, 2014).

time, its activities would likely not fall within the Tier III definition. Therefore, after that date, an exemption is likely not required.

### 9.3.9 Ethiopian People's Revolutionary Party (EPRP)

<u>Date authorized:</u>	October 17, 2013 <sup>89</sup>
<u>Covered activity:</u>	Voluntary solicitation, material support, and military-type training.
<u>Additional requirements:</u>	The applicant must not have participated in, or knowingly provided material support to, terrorist activities that targeted noncombatant persons or U.S. interests.

The EPRP is a leftist political party founded in 1972 in Ethiopia. It was engaged in violent conflict with successive Ethiopian governments and other parties from then until 1993. It qualified as a Tier III organization during that period because of its violent activities.

Although the EPRP continues to oppose the Ethiopian government, it has not engaged in any documented acts of violence since approximately January 1, 1993, and does not appear to fall within the definition of a Tier III terrorist organization after that date. Thus, an exemption is likely not required for later associations or activities.

### 9.3.10 Eritrean Liberation Front (ELF)

<u>Date authorized:</u>	October 17, 2013 <sup>90</sup>
<u>Covered activity:</u>	Voluntary solicitation, material support, and military-type training.
<u>Additional requirements:</u>	(1) The applicant must not have participated in, or knowingly provided material support to, terrorist activities that targeted noncombatant persons or U.S. interests; and (2) <i>If the applicant's activity or association with the ELF occurred prior to January 1, 1980</i> , then the applicant must <b>either</b> :

<sup>89</sup> See Policy Memorandum, Implementation of New Discretionary Exemption under INA Section 212(d)(3)(B)(i) for Activities and Associations Relating to the Ethiopian People's Revolutionary Party (EPRP), USCIS Office of the Director (PM-602-0100) (June 15, 2014).

<sup>90</sup> See Policy Memorandum, Implementation of New Discretionary Exemption under INA Section 212(d)(3)(B)(i) for Activities and Associations Relating to the Eritrean Liberation Front (ELF), USCIS Office of the Director (PM-602-0099) (June 15, 2014); see also Exercise of Authority Under INA § 212(d)(3)(B)(i), 78 Fed. Reg. 66037-01 (November 4, 2013).

- have been admitted as a refugee, granted asylum, or had an asylum or refugee application pending on or before October 2, 2013;

or

- be the beneficiary of an I-730 Refugee/Asylee Relative Petition filed at any time by a petitioner who was admitted as a refugee or granted asylum on or before October 2, 2013.

The ELF is a leftist political party founded in 1960 in Ethiopia with the goal of achieving Eritrean independence. It was engaged in violent conflict with successive Ethiopian governments and other parties from then through 1991. It met the definition of a Tier III organization during that period because of its violent activities.<sup>91</sup>

The ELF no longer operates, and it has not engaged in any documented acts of violence since approximately January 1, 1992. Therefore, it generally is not considered a Tier III organization after that date. Thus, the exemption is likely not required for later associations or activities.

### 9.3.11 Democratic Movement for the Liberation of Eritrean Kunama (DMLEK)

<u>Date authorized:</u>	October 17, 2013 <sup>92</sup>
<u>Covered activity:</u>	Voluntary solicitation, material support, and military-type training.
<u>Additional requirements:</u>	The applicant must not have participated in, or knowingly provided material support to, terrorist activities that targeted noncombatant persons or U.S. interests.

The DMLEK is an armed group in Eritrea founded in 1995 in opposition to the Eritrean government. It has been engaged in violent conflict with that government since its founding. It qualifies as a Tier III organization because of its violent activities.

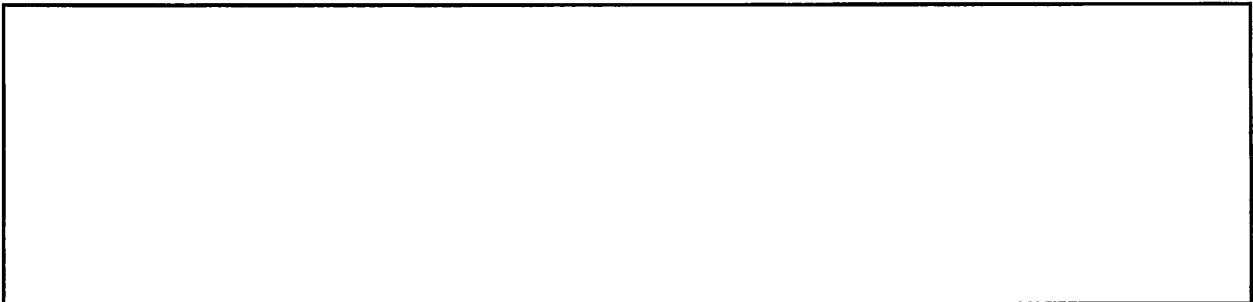
<sup>91</sup> See *Haile v. Holder*, 658 F.3d 1122, 1127 (9th Cir. 2011) (upholding an Immigration Judge's finding that the ELF constituted a terrorist organization). Note that the applicant in this case testified that the ELF continued to engage in violent activities at least up to 2002.

<sup>92</sup> See Exercise of Authority Under INA § 212(d)(3)(B)(i), 78 Fed. Reg. 66037-02 (November 4, 2013); see also Policy Memorandum, Implementation of New Discretionary Exemption under INA Section 212(d)(3)(B)(i) for the Democratic Movement for the Liberation of Eritrean Kunama (DMLEK), USCIS Office of the Director (PM-602-0098) (June 15, 2014).

**9.3.12 Certain Burmese Groups**

Date authorized: March 11, 2016<sup>93</sup>

- Groups included:
- All Burma Muslim Union
  - Arakan Army
  - Hongsawatoi Restoration Army / Party
  - Kachin Independence Army
  - Kachin Independence Organization
  - Karen National Defense Organization
  - Karenni Nationalities People’s Liberation Front
  - Kawthoolei Muslim Liberation Front
  - Kuki National Army
  - Mon National Liberation Army
  - Mon National Warrior Army
  - Myeik-Dawei United Front
  - National Democratic Front
  - National United Party of Arakan
  - New Democratic Army Kachin
  - New Mon State Party
  - Parliamentary Democracy Party
  - Ramanya Restoration Army
  - Shan State Army
  - Zomi Reunification Organization/Zomi Revolutionary Army (b)(7)(e)



Each of the above groups has engaged in violent activities that bring it within the definition of a Tier III organization.

<sup>93</sup> See Exercise of Authority under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act, 81 Fed. Reg. 21891-01 (Apr. 13, 2016); see also Policy Memorandum, Implementation of the Discretionary Exemption Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act for Certain Burmese Groups, USCIS Office of the Director (PM-602-0135) (June 2, 2016).

### 9.3.13 Afghan Civil Servants

**NOTE:** This exemption was signed by the Secretary of Homeland Security and Secretary of State, but has not yet been implemented by USCIS. Therefore, you should not apply this exemption until further notice.

On January 18, 2017, the Secretary of Homeland Security, in consultation with the Attorney General and Secretary of State, authorized an exemption for Afghan nationals who were employed in civil service positions while the Taliban was in power from September 27, 1996 through December 22, 2001. Due to the limitation on the exemption authority at INA § 212(d)(3)(B)(i), which prohibits exemptions from being granted for certain voluntary associations and activities with Tier I and Tier II organizations,<sup>94</sup> the adjudicator must assess the nature and context of the applicant's employment.

In addition to the threshold requirements listed in Section 9.2.1, the applicant must not have voluntarily and knowingly engaged in terrorist activity on behalf of the Taliban. The applicant's employment must not have directly advanced the Taliban's political or ideological agenda, and the applicant must have reasonably believed that to decline or depart from employment would prevent the applicant from being able to sustain important activities of daily life, subject the applicant or his or her family to physical or other harm, or would subject the applicant to comparably compelling circumstances such that the applicant reasonably believed that he or she could not decline or leave the employment.

## 9.4 Situational Exemptions

"Situational" exemptions apply to specified activities with a terrorist organization.

### 9.4.1 Duress-Based

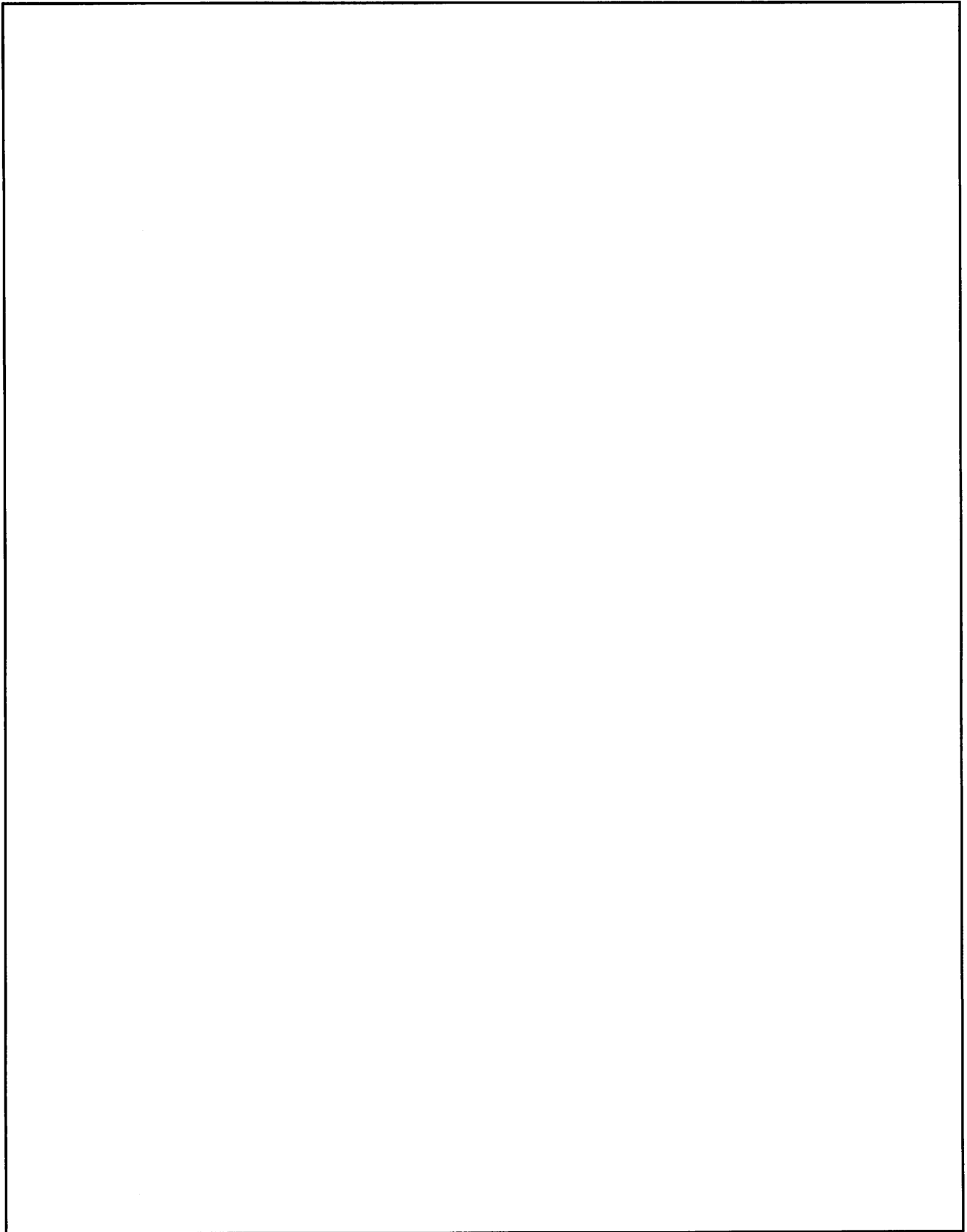
Some situational exemptions require that the activity have taken place under duress, requiring examination of the duress factors to determine eligibility for the exemption.

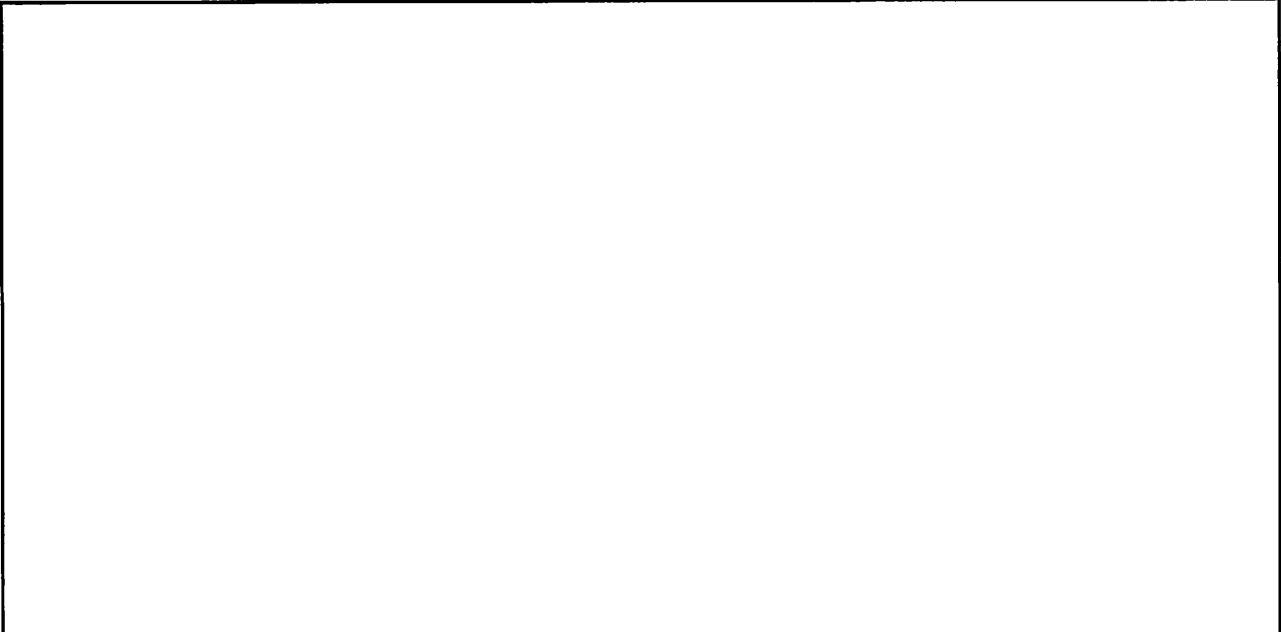
If duress is required for exemption eligibility, then testimony covering all duress factors must be elicited and analyzed. Duress has been defined, at a minimum, as a reasonably-perceived threat of serious harm.<sup>95</sup> In general, the duress factors include:

<sup>94</sup> INA § 212(d)(3)(B)(i) prohibits exemptions for voluntary service as a member or representative of a Tier I/II organization, voluntarily and knowingly engaging, endorsing, espousing, or persuading others to endorse/espouse/support terrorist activity for a Tier I/II organization, and voluntarily receiving military-type training from or on behalf of a Tier I/II organization.

<sup>95</sup> Memorandum to Associate Directors et al., Processing the Discretionary Exemption to the Inadmissibility Ground for Providing Material Support to Certain Terrorist Organizations, Jonathan Scharfen, Deputy Director (May 24, 2007).







There are three types of duress-based exemptions:

**Material Support under Duress – INA § 212(a)(3)(B)(iv)(VI)**

Date authorized: February 26, 2007 (for Tier III)<sup>96</sup>  
April 27, 2007 (for Tier I and Tier II)<sup>97</sup>

Covered activity: Material support under duress

Additional requirements: n/a

The material support under duress exemptions are by far the most commonly utilized exemption in USCIS adjudications. As noted above, material support is defined broadly and even small amounts of food, supplies, etc. constitute material support.<sup>98</sup> Material support under duress to Tier I, II, or III terrorist organizations may be exempted.

**Military-Type Training under Duress – INA § 212(a)(3)(B)(i)(VIII)**

Date authorized: January 7, 2011<sup>99</sup>

<sup>96</sup> See Exercise of Authority under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act, 72 Fed. Reg. 9958-01 (February 26, 2007).

<sup>97</sup> See Exercise of Authority under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act, 72 Fed. Reg. 26138-02 (April 27, 2007).

<sup>98</sup> See Section 8, above: TRIG – Material Support.

<sup>99</sup> See Exercise of Authority under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act, 76 Fed. Reg. 14418-01 (March 16, 2011).

**Covered activity:** Receipt of military-type training under duress from or on behalf of any organization that, at the time the training was received, was a terrorist organization.

**Additional requirements:** The applicant must establish that he or she has not received training that poses a risk to the U.S. or U.S. interests (e.g., training on production or use of a weapon of mass destruction, torture, or espionage).

Military-type training under duress may be exempted if it is from or on behalf of a Tier I, II or III terrorist organization. You must analyze the organization's activities to determine whether it met the definition of a terrorist organization at the time the alien received the training.<sup>100</sup>

18 U.S.C. § 2339D(c)(1) states that "military-type training" includes training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use, storage, production, or assembly of any explosive, firearm, or other weapon, including any weapon of mass destruction (as defined in 18 U.S.C § 2232a(c)(2)). Please note that marching in formation and physical exercise do not meet the statutory definition of military-type training.

This exemption does not apply to the use of weapons in combat. If an applicant received military-type training under duress and also participated in combat, he or she would not be eligible for this exemption, even if the combat took place under duress.

**Solicitation under Duress – INA § 212(a)(3)(B)(iv)(IV)(bb) and (cc) only and INA § 212(a)(3)(B)(iv)(V)(bb) and (cc) only**

**Date authorized:** January 7, 2011<sup>101</sup>

**Covered activity:** Solicitation under duress of funds or other things of value for a terrorist organization, and solicitation under duress of individuals for membership in a terrorist organization.

**Additional requirements:** n/a

<sup>100</sup> Policy Memorandum, Implementation of New Discretionary Exemption under INA Section 212(d)(3)(B)(i) for the Receipt of Military-Type Training under Duress, USCIS Office of the Director (PM-602-0030) (Feb. 23, 2011).

<sup>101</sup> See Exercise of Authority under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act, 76 Fed. Reg. 14419-01 (March 16, 2011); see also Policy Memorandum, Implementation of New Discretionary Exemption Under INA Section 212(d)(3)(B)(i) For the Solicitation of Funds or Members under Duress, USCIS Office of the Director (PM-602-0031) (Feb. 23, 2011).

The solicitation of funds or other things of value (under INA § 212(a)(3)(B)(iv)(IV)(bb) for Tier I and Tier II terrorist organizations and § 212(a)(3)(B)(iv)(IV)(cc) for Tier III terrorist organizations) and the solicitation of individuals for membership (under INA § 212(a)(3)(B)(iv)(V)(bb) for Tier I and Tier II terrorist organizations and § 212(a)(3)(B)(iv)(V)(cc) for Tier III terrorist organizations) may be exempted.

Note that neither the solicitation of funds or other things of value for a terrorist activity (INA § 212(a)(3)(B)(iv)(IV)(aa)) nor the solicitation of individuals to engage in terrorist activity (§ 212(a)(3)(B)(iv)(V)(aa)) is covered by this exemption.

#### 9.4.2 Voluntary Medical Care

Date authorized: October 13, 2011<sup>102</sup>

Covered activity: Voluntary medical care provided to individuals engaged in terrorist activities, undesignated terrorist organizations, or members of terrorist organizations, except for medical care on behalf of a Tier I or Tier II terrorist organization.

Additional requirements: N/A

Medical care provided to members of a terrorist organization, to a terrorist organization, or to an individual the alien knows or reasonably should have known<sup>103</sup> has committed or plans to commit a terrorist activity, would render an applicant inadmissible in spite of the oaths of commitment to serve patients that are often taken by medical professionals. (For those individuals who provided medical care under duress, [REDACTED])

(b)(7)(e)

To address this, the Secretary of Homeland Security authorized this exemption to allow USCIS not to apply the material support inadmissibility provision to certain aliens who provided medical care to persons associated with terrorist organizations or the members of such organizations. This exemption is limited to the voluntary provision of medical care, which includes:

<sup>102</sup> See Exercise of Authority Under the Immigration and Nationality Act, 76 Fed. Reg. 70463-03 (November 14, 2011); see also Policy Memorandum, Implementation of New Exemption Under INA Section 212(d)(3)(B)(i) for the Provision of Material Support in the Form of Medical Care, USCIS Office of the Director (PM-602-0052) (Nov. 20, 2011).

<sup>103</sup> If the medical professional did not and reasonably should not have known that the patient he or she was treating was a member of a terrorist organization or involved in terrorist activities, then the inadmissibility/bar would not apply.

- Services provided by and in the capacity of a medical professional, such as physician, nurse, dentist, psychiatrist or other mental health care provider, emergency room technician, ambulance technician, medical lab technician, or other medical-related occupation; and
- Related assistance by non-medical professionals providing, for example, emergency first aid services to persons who have engaged in terrorist activity (e.g., Good Samaritans and first aid givers).

This exemption does not apply to the provision of medical supplies independent of the provision of medical care or medical advice. Nor does the exemption apply to transportation of an injured individual to a hospital or other location for medical treatment independent of the provision of any medical care or first aid. Both of these activities would fall under the provision of material support. These provisions of material support may, however, qualify for other exemptions such as the Certain Limited Material Support Exemption or the Insignificant Material Support Exemption.

**Medical care on behalf of a Tier I or II Organization:** INA § 212(d)(3)(B)(i) explicitly prohibits the exercise of exemption authority for aliens who “voluntarily and knowingly engaged in . . . terrorist activity *on behalf of*” a Tier I or II organization (emphasis added). Therefore, medical care cannot be exempted when the applicant provided the care voluntarily and knowingly on behalf of a Tier I or II organization. For example, this would include situations in which a medical provider serves as a staff physician for a Tier I or II organization, or provides medical care to an organization’s members in order to abet the group’s pursuit of its terrorist aims. Note that medical care on behalf of a Tier I or Tier II organization is distinct from medical care provided to members of a Tier I or Tier II organization when the provider has no association with the Tier I or Tier II organization.

This restriction on exemptions for voluntary activities on behalf of Tier I or II organization would not apply to an alien who provided medical care on behalf of a Tier III terrorist organization, e.g., a staff physician. However, the role of the medical care provider and the activities of the Tier III organization involved should be carefully considered in determining whether to grant a discretionary exemption to an individual who has provided medical care on behalf of a Tier III organization. The fact that a group engaged in violent activities against civilians, for example, or later was designated as a terrorist organization after the applicant’s association with the group, would weigh heavily towards a denial of this exemption and likely the immigration benefit sought.

### 9.4.3 Limited General Exemption

The Limited General Exemption applies to certain aliens who had already been granted an immigration benefit in the United States as of August 10, 2012, or who are beneficiaries of an I-730 Refugee/Asylee Relative petition filed at any time by a

petitioner who was granted asylum or refugee status on or before August 10, 2012.  
Therefore, this exemption is primarily utilized outside of RAIO adjudications.

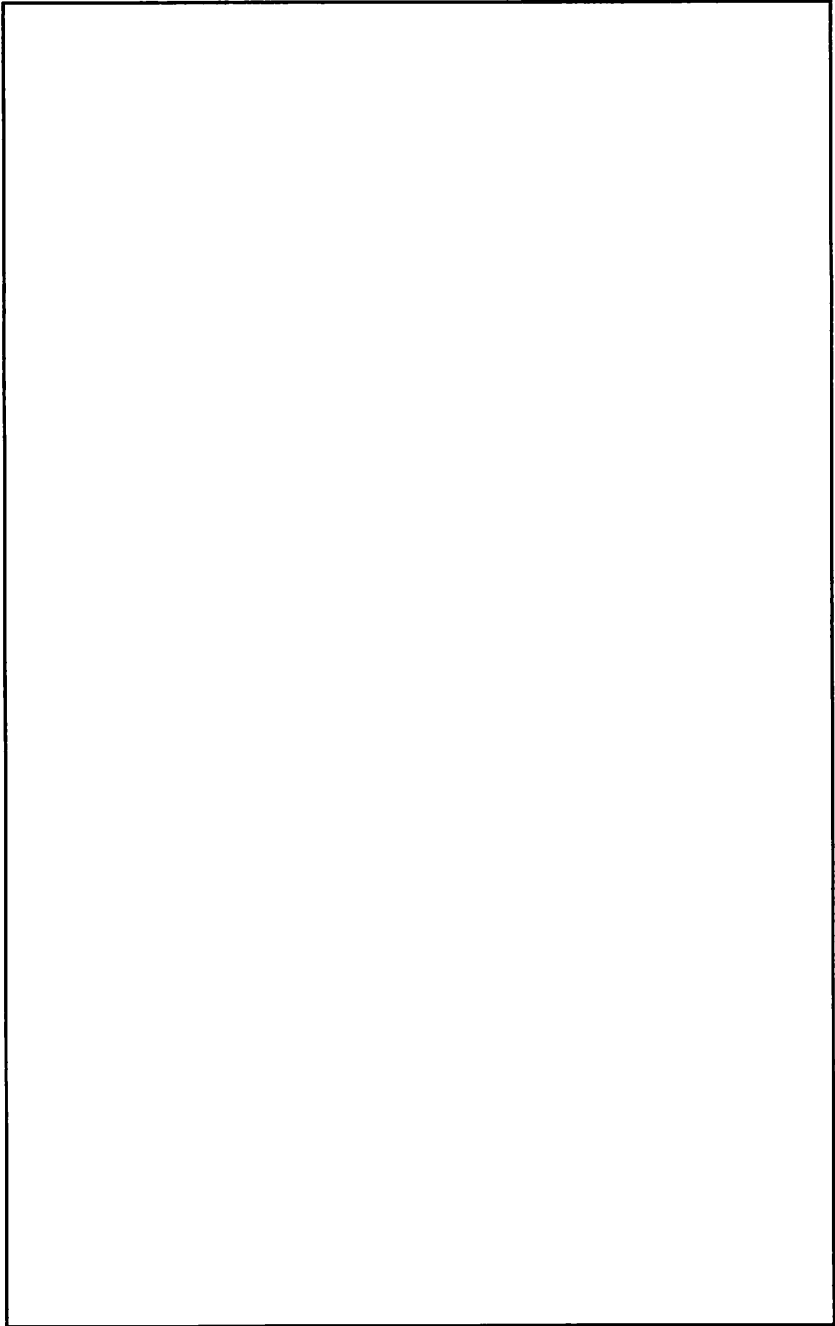
Date authorized:

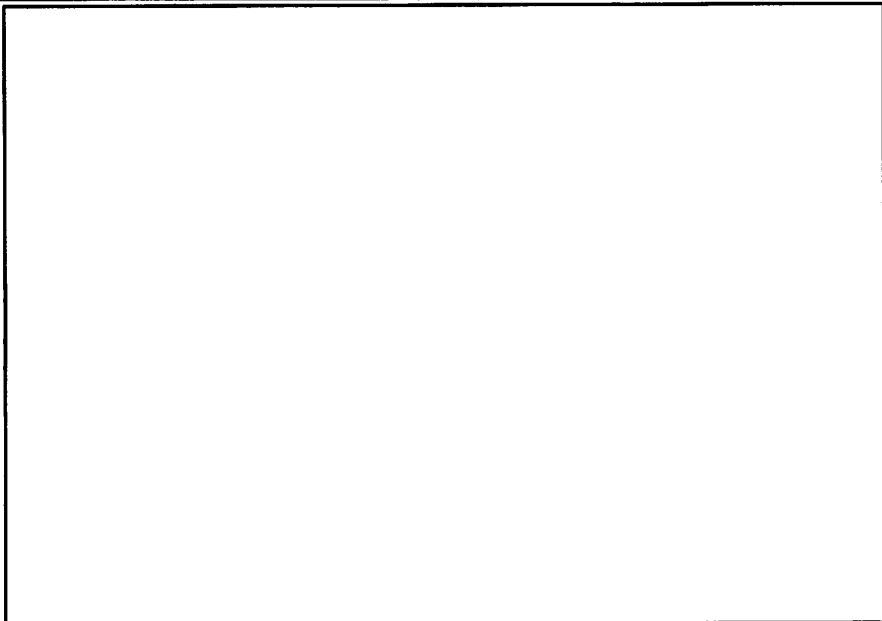
August 10, 2012<sup>104</sup>

(b)(7)(e)

Covered activity:

Additional requirements:





**9.4.4 Iraqi Uprisings**

Date authorized: August 17, 2012<sup>105</sup>

Covered activity: Any activity or association relating to the uprisings against the government of Saddam Hussein in Iraq between March 1 through April 5, 1991.

Additional requirements:

- (1) The applicant must not have participated in, or knowingly provided material support to, terrorist activities that targeted noncombatant persons not affiliated with Saddam Hussein’s regime from March 1 through April 5 of 1991, or U.S. interests; and
- (2) The applicant must not have engaged in terrorist activity, not otherwise exempted, outside the context of resistance activities directed against Saddam Hussein’s regime from March 1 through April 5 of 1991.

The “Iraqi Uprisings” is a term used to refer to a period of revolt in southern and northern Iraq between March 1 and April 5, 1991.<sup>106</sup> The uprisings in the south and north are popularly referred to as the Shi’a and Kurdish uprisings, respectively. Although these groups are different, their rebellion was fueled by the common belief that Saddam Hussein and his security forces were vulnerable following defeat by the allied forces in

<sup>105</sup> See Exercise of Authority Under INA § Sec. 212(d)(3)(B)(i), 77 Fed. Reg. 51545-02 (Aug. 24, 2012); see also Policy Memorandum, Implementation of New Exemption Under Immigration and Nationality Act (INA) Section 212(d)(3)(B)(i) for Participation in the Iraqi Uprisings, USCIS Office of the Director (PM-602-0076) (Nov. 12, 2012).

<sup>106</sup> Human Rights Watch, Endless Torment: The 1991 Uprising in Iraq and its Aftermath (1992).

the Persian Gulf War.<sup>107</sup> Although the rebels achieved momentary victories, they were rapidly defeated by Iraqi government forces led by the Republican Guard.

#### 9.4.5 Exemptions for Certain Limited Material Support (CLMS) and Insignificant Material Support (IMS)

<u>Date authorized:</u>	February 5, 2014 <sup>108</sup> (separate exemptions authorized for CLMS and IMS)
<u>CLMS covered activity:</u>	Limited material support related to a Tier III terrorist organization that involves: (1) certain routine commercial transactions; (2) certain routine social transactions; (3) certain humanitarian assistance; or (4) sub-duress pressure.
<u>IMS covered activity:</u>	Insignificant material support related to a Tier III terrorist organization.
<u>Additional requirements:</u>	<p><b>CLMS only</b> – (1) The applicant must not have provided the material support with any intent or desire to assist any terrorist organization or terrorist activity; <b>or</b></p> <p><b>IMS only</b> – (1) The applicant must not have provided the material support with any intent of furthering the terrorist or violent activities of the individual or organization; and</p> <p><b>Both CLMS and IMS</b> – The applicant must not have provided material support:</p> <p>(2) That the applicant knew or reasonably should have known could directly be used to engage in terrorist or violent activity;</p> <p>(3) To any individual who the applicant knew or reasonably should have known had committed or planned to commit a terrorist activity on behalf of a Tier I/II designated terrorist organization;</p> <p>(4) To terrorist activities that the alien knew or reasonably should have known targeted noncombatants, U.S. citizens, or U.S. interests;</p> <p>(5) That the alien knew or reasonably should have known involved providing weapons, ammunition, explosives, or their components / transportation / concealment; and</p> <p>(6) In the form of giving military-type training.</p>

<sup>107</sup> *Id.*

<sup>108</sup> Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act, 79 Fed. Reg. 6914-01 (Feb. 5, 2014); Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act, 79 Fed. Reg. 6913-02 (Feb. 5, 2014).



Both exemptions require that the applicant not have provided material support that he or she knew or reasonably should have known could be used **directly** to engage in violent or terrorist activity. Therefore, if an applicant has provided any quantity of weapons, explosives, ammunition, military-type training, or other types of support that are generally understood to be used for violent or terrorist activity, the applicant will, in general, not be eligible for either the CLMS or the IMS exemption. On the other hand, providing support such as food, water, or shelter that is generally not directly used for violent activity will usually not disqualify an applicant from consideration for these exemptions.<sup>109</sup>

The CLMS exemption is intended to cover otherwise eligible applicants for visas or immigration benefits who provided certain types of **limited** material support to an Tier III terrorist organization, or to a member of such an organization, or to an individual the applicant knew or reasonably should have known has committed or plans to commit a terrorist activity. The support provided must have been **incidental to routine commercial transactions, routine social transactions, certain humanitarian assistance, or in response to substantial pressure that does not rise to the level of duress (“sub-duress pressure”)**.<sup>110</sup>

**Routine commercial transactions** are transactions in which the applicant could or would engage in the ordinary course of business. To be a routine commercial transaction, the transaction must have occurred on substantially the same terms as other transactions of the same type regardless of the parties to the transaction. A commercial transaction is not routine if it is motivated by the status, goals, or methods of the organization or the applicant’s connection to the organization or conducted outside the course of the applicant’s business activities.<sup>111</sup> To qualify as a routine commercial transaction, an applicant must have been the provider of goods and/or services, and not the customer.

**Routine social transactions** are transactions that satisfy and are motivated by specific, compelling, and well-established family, social, or cultural obligations or expectations. A routine social transaction is not motivated by a generalized desire to “help society” or “do good.” It involves support no different than the support that the applicant would provide under similar circumstances to others who were not members of undesigned terrorist organizations.<sup>112</sup>

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<sup>109</sup> Policy Memorandum, Implementation of the Discretionary Exemption under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act for the Provision of Certain Limited Material Support, USCIS Office of the Director (PM-602-0112) (May 8, 2015); Policy Memorandum, Implementation of the Discretionary Exemption under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act for the Provision of Insignificant Material Support, USCIS Office of the Director (PM-602-0113) (May 8, 2015).

<sup>110</sup> Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act, 79 Fed. Reg. 6914-01 (Feb. 5, 2014).

<sup>111</sup> Policy Memorandum, Implementation of the Discretionary Exemption under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act for the Provision of Certain Limited Material Support, USCIS Office of the Director (PM-602-0112) (May 8, 2015).

<sup>112</sup> *Id.*

**Certain humanitarian assistance** is aid provided with the purpose of saving lives and alleviating suffering, on the basis of need and according to principles of universality, impartiality, and human dignity. It seeks to address basic and urgent needs such as food, water, temporary shelter, and hygiene, and it is generally triggered by emergency situations or protracted situations of conflict or displacement. It does not include development assistance that seeks the long-term improvement of a country's economic prospects and chronic problems such as poverty, inadequate infrastructure, or underdeveloped health systems.<sup>113</sup>

When an applicant has provided material support that may be considered "certain humanitarian assistance" in association with a humanitarian organization, vetting of that organization may be required. If you interview an applicant who has provided "certain humanitarian assistance" in association with a humanitarian organization, you should elicit as much detail as possible about the activity in question, including the time and location of the activity, as well as name and location of the organization. You must discuss the case with your supervisor, who will then raise the case to your Division's TRIG POC, before you proceed with the adjudication.

**Sub-duress pressure** is a reasonably perceived threat of physical or economic harm, restraint, or serious harassment, leaving little or no reasonable alternative to complying with a demand. Pressure may be considered sub-duress pressure if providing the support is the only reasonable means by which the applicant may carry out important activities of his or her daily life. The pressure must come, either entirely or in combination with other factors, from the organization to which the applicant provided support.<sup>114</sup>

In order for the CLMS exemption to apply, the applicant, in providing material support, must not have intended or desired to assist any terrorist organization or terrorist activity.<sup>115</sup>

### **Insignificant Material Support**

The IMS exemption is intended to cover otherwise eligible applicants for visas or immigration benefits who provided **insignificant** amounts of material support to an Tier III terrorist organization, or to a member of such an organization, or to an individual the applicant knew or reasonably should have known has committed or plans to commit a terrorist activity.

**Insignificant material support** is support that (1) is minimal in amount and (2) the applicant reasonably believed would be inconsequential in effect. In order to determine whether support is minimal, you must consider and evaluate its relative value, fungibility,

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<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> Exercise of Authority Under Section 212(d)(3)(B)(i), 79 Fed. Reg. 6914-01 (Feb. 5, 2014).

quantity and volume, and duration and frequency.<sup>116</sup> Material support is “inconsequential in effect” if the actual or reasonably foreseeable impact of the support and the extent to which it enabled the organization or individual to continue its mission or his or her violent or terrorist activity was, at most, insignificant. It is not “inconsequential in effect” if it could prove vital to furthering the aims of an organization by meeting a particularized need at the time the support was provided or involved more than very small amounts of fungible support given with the intention of supporting non-violent ends.

For the IMS exemption to apply, the applicant must not have provided the material support with the intent of furthering the terrorist or violent activities of the individual or organization.<sup>117</sup>

For additional guidance on the application of the CLMS and IMS exemptions, contact your your Division’s TRIG POC.

## 9.5 Procedures

### 9.5.1 212(a)(3)(B) Exemption Worksheet

(b)(7)(e)

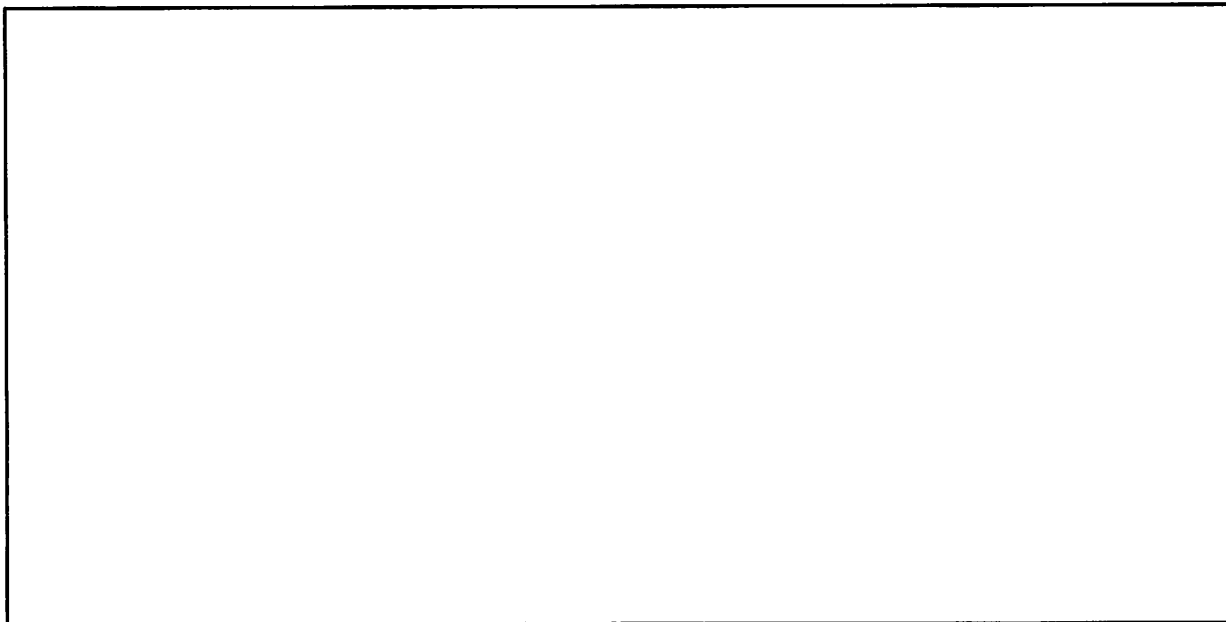
### 9.5.2 Processing Cases

#### More than One Terrorism-Related Ground of Inadmissibility

#### Denials / Referrals

<sup>116</sup> Policy Memorandum, Implementation of the Discretionary Exemption under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act for the Provision of Insignificant Material Support, USCIS Office of the Director (PM-602-0113) (May 8, 2015).

<sup>117</sup> Exercise of Authority Under Section 212(d)(3)(B)(i), 79 Fed. Reg. 6913-02 (Feb. 5, 2014).



## 10 LEGAL ANALYSIS

### 10.1 Burden and Standard of Proof

When there is evidence, testimonial or otherwise, indicating that an applicant is subject to TRIG, the burden is on the applicant to establish eligibility by the standard of proof required for the benefit he or she is seeking. The burden of proof refers to the duty of one party to prove a fact, while the standard of proof refers to the amount of evidence required to prove that fact.

In asylum cases, an applicant must establish by a preponderance of the evidence that he or she is not subject to any bars.<sup>118</sup>

In refugee adjudications, where evidence indicates an applicant may be subject to a ground of inadmissibility, including TRIG, the applicant must establish clearly and beyond doubt that the inadmissibility ground does not apply in order to be eligible for refugee status (see International and Refugee Adjudications Supplement— Burden and Standard of Proof for TRIG Inadmissibility Grounds ).<sup>119</sup>

### 10.2 Documentation Relating to TRIG Issues

You must properly document all TRIG-related issues in a case, in line with policy and guidance (see Asylum Adjudications Supplement—Note Taking – National Security).

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<sup>118</sup> INA § 208(b)(1)(B)(i); 8 C.F.R. §§ 208.13(a) and (c)(2)(ii).

<sup>119</sup> INA § 235(b)(2)(A).

### 10.3 Dependents/Derivatives

TRIG inadmissibilities and bars also apply independently to any relative who is included in an applicant's request for an immigration benefit. In some instances, a principal applicant may be granted the benefit sought and his or her dependent/derivative may be denied the benefit sought or referred to immigration court because the dependent/derivative is subject to TRIG.<sup>120</sup>

## 11 CONCLUSION

As the United States continues to face national security threats, RAIO plays a critical role in defending the homeland by maintaining the integrity of our immigration benefit programs. In this regard, it is critical for you to properly assess each case in consideration of possible TRIG issues and to follow your division's procedures for processing these cases.

## 12 SUMMARY

U.S. immigration laws contain provisions to prevent individuals who may be involved in terrorist activities from receiving immigration benefits. As an adjudicator, you will identify potential TRIG issues and process those cases in accordance with these laws.

### 12.1 Interviewing TRIG Cases

(b)(7)(e)

### 12.2 Terrorism-Related Inadmissibility Issues

An applicant is ineligible to receive most immigration benefits if the individual is described in any of the terrorism-related inadmissibility grounds unless an exemption is available and granted by USCIS. In addition to rendering inadmissible those seeking admission to the United States, the terrorism-related inadmissibility grounds are bars to asylum.

<sup>120</sup> 8 C.F.R. § 208.21(a); INA § 207(c)(2)(A).

**12.2.1 Terrorist Organizations**

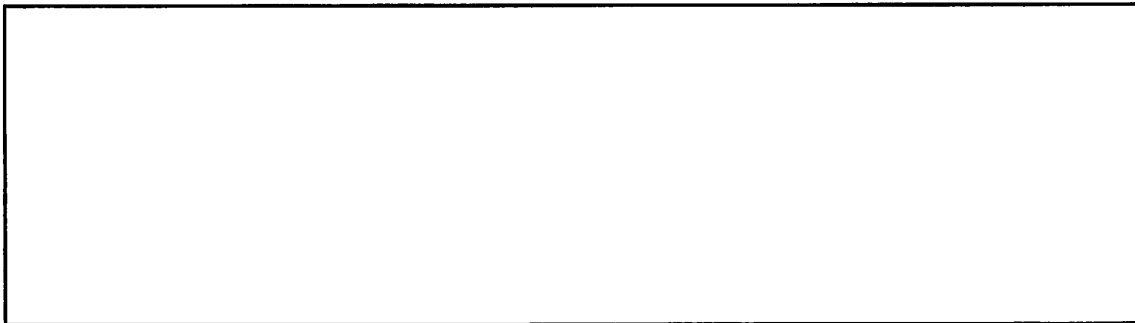
Under the INA, there are three categories of terrorist organization, sometimes referred to as “tiers.” Tier I designated terrorist organizations appear on the Foreign Terrorist Organizations (FTO) list while Tier II designated terrorist organizations are on the Terrorist Exclusion List (TEL). A Tier III undesignated terrorist organization is any group of two or more individuals that, whether organized or not, engages in terrorist activity, or has a subgroup that engages in terrorist activity. Depending on whether the organization is a designated terrorist organization or an undesignated terrorist organization, there are distinct immigration consequences.

**12.2.2 Terrorism-Related Inadmissibility Grounds**

The terrorism-related inadmissibility grounds are listed at INA § 212(a)(3)(B)(i)(I)-(IX).

**12.2.3 Material Support**

(b)(7)(e)



**12.2.4 TRIG Exemption Authority**

INA § 212(d)(3)(B)(i), as revised by the 2005 REAL ID Act and the Consolidated Appropriations Act, 2008, includes a discretionary exemption provision for certain terrorism-related inadmissibility grounds under INA § 212(a)(3)(B). This exemption authority can be exercised by the Secretary of Homeland Security or the Secretary of State after consultation with each other and the Attorney General.<sup>121</sup>

**13 RESOURCES**

At various points during your interview preparation, you may encounter indicators that require additional research to make sure you can conduct an informed, thorough interview of a case with potential TRIG issues. For example, in order to determine if a group of two or more individuals meets the definition of a Tier III organization, you should research the group and assess the group’s activities. The following resources

<sup>121</sup> INA § 212(d)(3)(B)(i). For some specific examples of the Secretary’s exercise of discretion under this provision, see USCIS [Fact Sheets](#).

**13.1 USCIS TRIG ECN**

The RAI0 TRIG Branch maintains a comprehensive, one-stop shop for resources on TRIG issues. This resource is available through the USCIS TRIG ECN.

**13.2 USCIS Refugee, Asylum and International Operations Research Unit (RAIO Research Unit)**

The RAI0 Research Unit’s Country of Origin Information (COI) research papers are a good starting point for officers. RAI0 Research Unit (RRU) products include specific COI that may be helpful when adjudicating cases involving TRIG. The RRU products may be accessed through the RAIO Research Unit ECN page.

In accordance with each Division’s established procedures, you may submit queries to the RRU (email to RAIOResearch@uscis.dhs.gov) when additional country conditions information is required to reach a decision in a case.

**13.3 USCIS Fraud Detection and National Security Directorate**

In support of the overall USCIS mission, the Fraud Detection and National Security Directorate (FDNS) was created to enhance the integrity of the legal immigration system, detect and deter benefit fraud, and strengthen national security.

The RAIO FDNS ECN provides a repository of open source intelligence and publications relating to national security in the “Country Specific Resources” and “News & Bulletins” sections.

**13.4 Department of State**

The Department of State’s Office of Counterterrorism maintains a body of resource information on its website, which includes country reports on terrorism.

**13.5 RAI0 COI Tool**

The RAI0 COI Tool is a practical, data-driven tool designed to assist officers interviewing Syrian refugee applicants by providing reliable, specific, localized country of origin information. The tool itself is a Microsoft Word plug-in that integrates the Syria event database into the interviewing officer’s assessment.

Use of the COI Tool allows officers to access information regarding locations and events in Syria relevant to the applicant’s refugee claim, places of residence, and travel patterns. This applicant-specific COI Tool enhances the officer’s ability to develop tailored lines

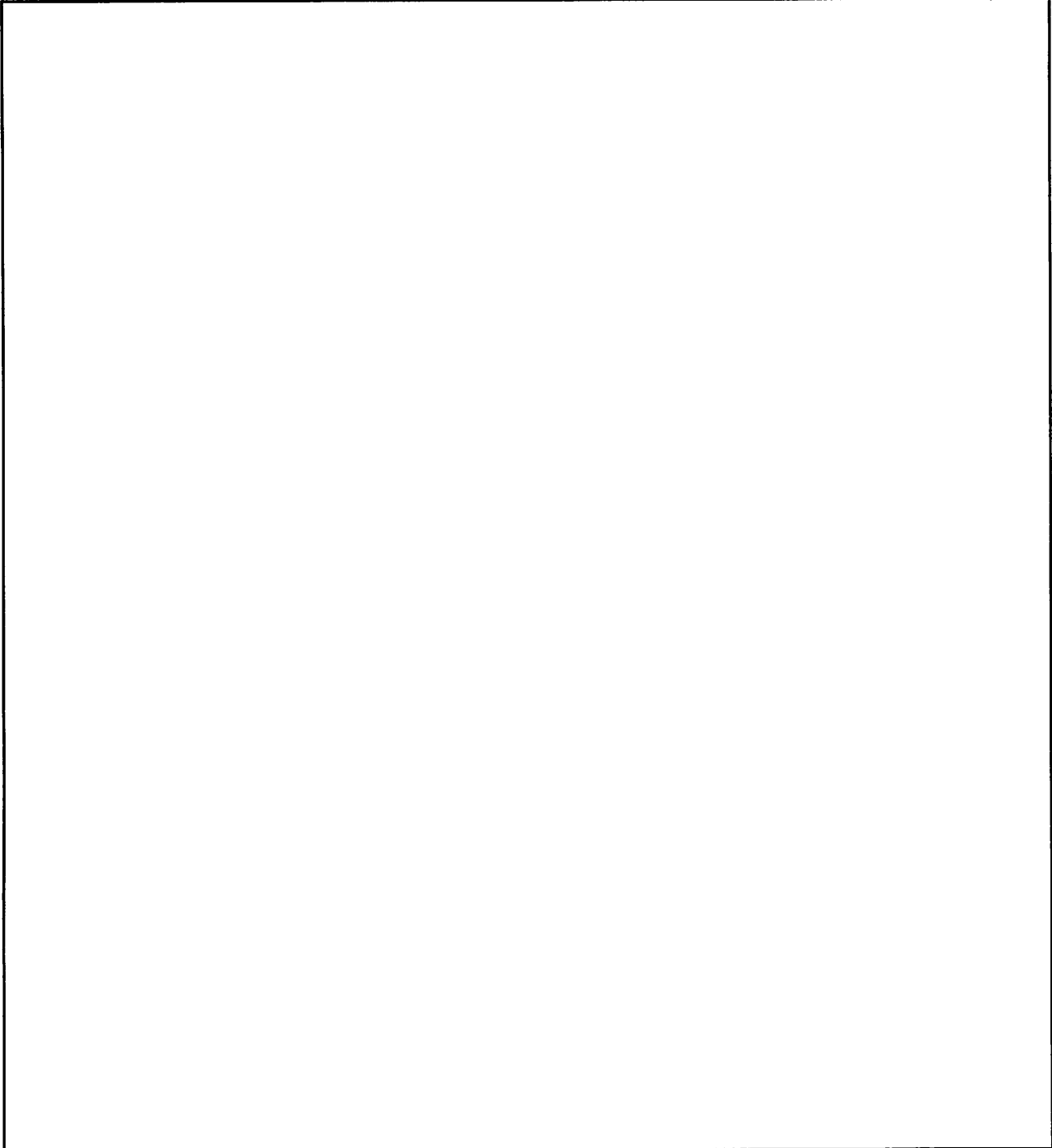
of questioning, assess applicant credibility, and identify potential national security concerns and TRIG.



**PRACTICAL EXERCISES**

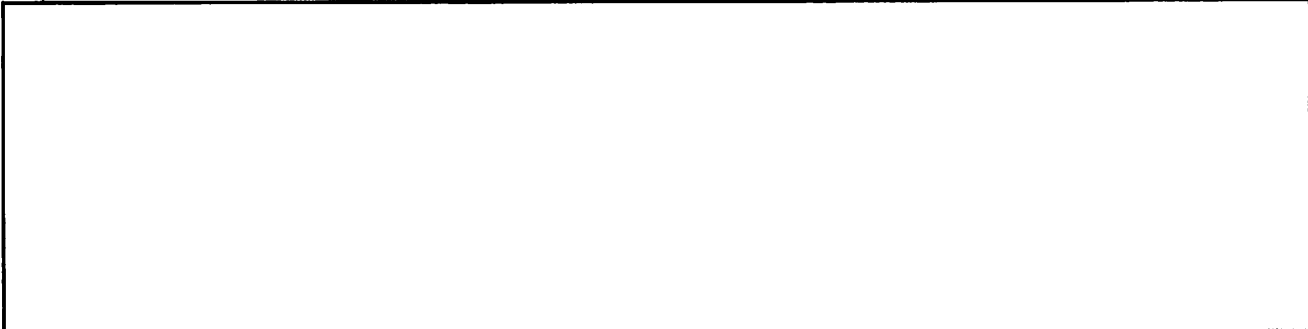
**Practical Exercise # 1**

(b)(7)(e)



**Practical Exercise # 2**

(b)(7)(e)



**SUPPLEMENT A – INTERNATIONAL AND REFUGEE ADJUDICATIONS**

The following information is specific to international and refugee adjudications. Information in each text box contains adjudication-specific procedures and guidelines related to the section from the Training Module referenced in the subheading of the supplement text box.

**REQUIRED READING**

- 1.

**ADDITIONAL RESOURCES**

- 2.

**SUPPLEMENTS**

**International and Refugee Adjudications Supplement**

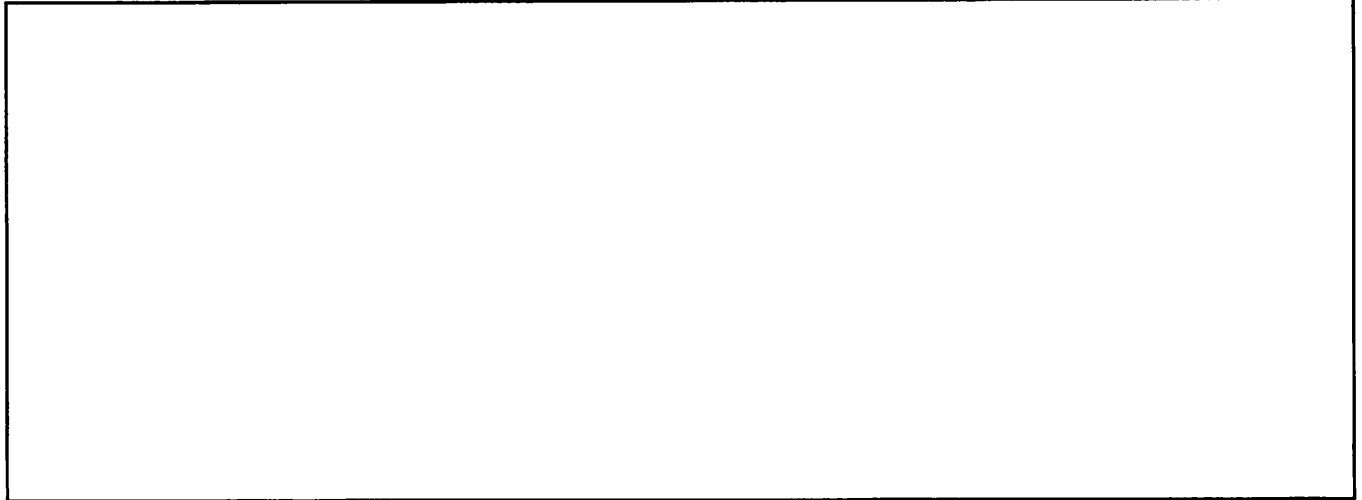
**Burden and Standard of Proof for TRIG Inadmissibility Grounds**

If the evidence indicates that the refugee applicant may be inadmissible to the United States pursuant to INA § 212(a)(3)(B), then the refugee applicant must establish clearly and beyond doubt that the inadmissibility ground does not apply in order to be eligible for refugee<sup>122</sup> status.<sup>123</sup>

(b)(7)(e)

<sup>122</sup> Refugee cases include both Form I-590 and Form I-730 follow-to-join refugee (FTJ-R) adjudications.

<sup>123</sup> INA § 235(b)(2)(A).



**SUPPLEMENT B – ASYLUM ADJUDICATIONS**

The following information is specific to asylum adjudications. Information in each text box contains adjudication-specific procedures and guidelines related to the section from the Training Module referenced in the subheading of the supplement text box.

**REQUIRED READING**

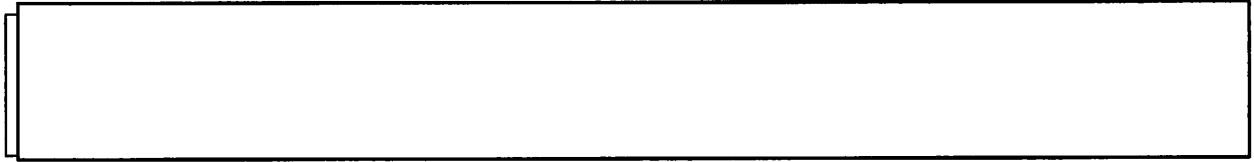
1. Asylum Division Identity and Security Checks Procedures Manual (ISCPM), especially Section VIII of the ISCPM regarding Cases Involving Terrorism or Threats to National Security.
2. Asylum Division Affirmative Asylum Procedures Manual (AAPM).
3. ABC/NACARA Procedures Manual.

**ADDITIONAL RESOURCES**

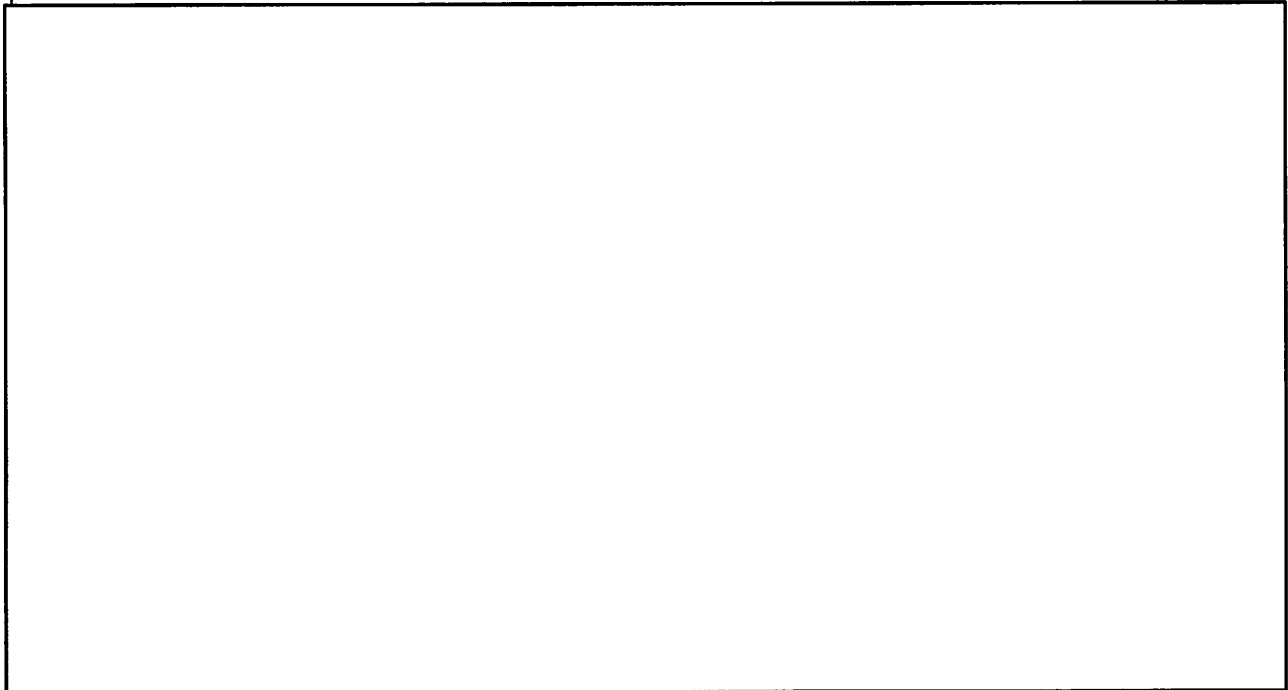
1. Matter of A-H-, 23 I&N Dec. 774 (AG 2005).
2. Singh-Kaur v. Ashcroft, 385 F.3d 293 (3d Cir. 2004).
3. Matter of R-S-H-, 23 I&N Dec. 629 (BIA 2003).
4. Barahona v. Holder, 691 F. 3d (4<sup>th</sup> Cir. 2012).

**SUPPLEMENTS**

<b><u>Asylum Adjudications Supplement</u></b>	(b)(7)(c)



**Asylum Adjudications Supplement**  
**Note Taking – National Security**



For further explanation and requirements, see RAIO Training module, *Interviewing - Note-Taking*, including the Asylum Adjudications Supplement. See also the Affirmative Asylum Procedures Manual (AAPM), the ABC/NACARA Procedures Manual and the Suspension of Deportation and Special Rule Cancellation of Removal under NACARA Lesson Plan.

