

Terrorism-Related Inadmissibility Grounds (TRIG)

February 2017

RAIO TRIG Program Branch



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO

TRIG?

Based on your current understanding, have these applicants committed terrorist activity?

- 1) Applicant is a young girl who was kidnapped and held captive by members of an armed group at their camp in the bush. While suffering extreme abuse, including rape, she was forced to gather firewood, cook, and clean.
- 2) Applicant is a subsistence farmer. One day, uniformed rebel soldiers passed by and asked him for water. He gave them each one glass of water.
- 3) Applicant is a doctor who provided treatment to anyone who came to his clinic. During the revolution in his country, he stitched and dressed the wounds of some rebel soldiers.
- 4) Applicant is a small boy who was kidnapped by a rebel group and forced to undergo combat training and fight for the group before he managed to escape.



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 2

Benefits Affected

INA § 212(a)(3)(B) TRIG applies to any benefit subject to the INA § 212 inadmissibility provisions, including:

- Refugee admission
- Asylum

TRIG is a mandatory bar to asylum under INA § 208(b)(2)(A)(v).

The § 208(b)(2)(A)(v) mandatory TRIG bar and the § 237(a)(4)(B) deportability ground for terrorist activities both incorporate § 212(a)(3)(B) TRIG.

- Adjustment of status, follow-to-join refugee/asylee status, and Temporary Protected Status (TPS)



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 3

TRIG Involves Multiple Parts

INA § 212(a)(3)(B) involves multiple, interrelated sections that work together.

- Nine grounds of inadmissibility INA §§ 212(a)(3)(B)(i)(I)-(IX)

Statutory definitions to interpret these nine inadmissibility grounds:

- Three types of organizations are defined as “terrorist organizations” INA §§ 212(a)(3)(B)(vi)(I)-(III)
- Six categories of activity are defined as “terrorist activity” INA §§ 212(a)(3)(B)(iii)(I)-(VI)
- Six categories of activity are defined as “engaging in terrorist activity” INA §§ 212(a)(3)(B)(iv)(I)-(VI)



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 4

What is a “terrorist organization”?

INA § 212(a)(3)(B)(vi)



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 5

What is a “terrorist organization”?

Three categories of terrorist organizations defined in INA § 212(a)(3)(B)(vi):

- Tier I Designated Foreign Terrorist Organizations
- Tier II Designated Terrorist Exclusion List
- Tier III Undesignated Terrorist Organizations



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 6

Tier II Terrorist Organizations

Terrorist Exclusion List (TEL) - an organization designated by the Secretary of State in consultation with or at the request of DHS or DOJ after finding that it engages in terrorist activity.

- Same immigration consequences as Tier I/FTOs
- Terrorist Exclusion List can be found at <http://www.state.gov/j/ct/rls/other/des/123086.htm>



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 8

Tier I Terrorist Organizations

A Foreign Terrorist Organization (FTO) is designated under INA § 219 by the Secretary of State.

- List of FTOs can be found at:
<http://www.state.gov/j/ct/rls/other/des/123085.htm>
- Although the Taliban is not included on the Department of States FTO list, Congress has legislatively designated the Taliban as a Tier I terrorist organization for purposes of INA § 212(a)(3)(B).



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 7

Tier III Terrorist Organizations

Undesignated Terrorist Organization - a group of two or more individuals, whether organized or not, which engages in terrorist activity or has a subgroup that engages in terrorist activity.

- Called “undesigned” terrorist organizations because they do not appear on a list
- Can be unnamed/unorganized
- No requirement that the Tier III group endangers U.S. national security

With the broad definition of “terrorist activity,” armed resistance groups, guerillas, and “freedom fighters” may meet the definition of “terrorist organizations”



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 9

What is “terrorist activity”?

INA § 212(a)(3)(B)(iii)



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 10

What is “terrorist activity”?

Activity that is unlawful and which involves any of the following:

- (I) Hijacking or sabotaging of any conveyance (including an aircraft, vessel, or vehicle)
- (II) The seizing or detaining, and threatening to kill, injure, or continue to detain, another individual *in order to compel a third person to do or abstain from doing an act*
- (III) Violent attack on "internationally protected person" (generally diplomats/government officials outside of their country)
- (IV) Assassination



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 11

What is “terrorist activity”?

(V) Use of biological agent, chemical agent, or nuclear weapon or device or any explosive, firearm, or other weapon or dangerous device (other than for mere personal monetary gain) with intent to endanger the safety of individual(s) or to cause substantial property damage

- ▣ There is no requirement that the use of weapons target civilians
- ▣ Even if they were supported by the U.S. government, this brings armed resistance groups under the definition of a “terrorist organization”

(VI) A threat, attempt, or conspiracy to do any of the foregoing.



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 12

Let's Practice – Does the group meet the definition of a “terrorist organization”?

In an effort to gain autonomy, the Jekyll Island Liberation Front. attempted to occupy and gain control of police stations and government buildings, therefore, endangering the safety of local law enforcement, county employees, and ordinary citizens. During this attack, this group engaged local law enforcement with small arms fire.

Would the JILF be considered a terrorist organization? If so, what type?



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 13

Government Activity vs. Terrorist Organization Activity

INA § 212(a)(3)(B) does not include activity of a recognized and duly constituted government (such as by the security forces or military) within the definition of “terrorist activity” or “engaging in terrorist activity.”

- Entities in *de facto* control of an area may not be recognized as the government.
- In a multi-party system, a political party with representation in the government is not considered the government of a country.

This is a DHS interpretation of the law. Contact your supervisor or TRIG POC with any questions.



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 14

Let's Practice

Does the group meet the definition of a Tier I/Tier II/Tier III terrorist organization?

- The Sudan People's Liberation Army (SPLA) was founded in 1983 as an armed guerrilla movement fighting for control of the southern areas of Sudan. Following a 2011 referendum, South Sudan was recognized as a sovereign state. The SPLA became the regular army of the new country of South Sudan.

An applicant had some dealings with the SPLA in (a) 1998; (b) 2012. Which type of terrorist organization (if any) was he dealing with?

- The Mujahedin-e-Khalq (MEK), an Iranian resistance organization founded in 1965, engaged government soldiers in armed skirmishes. It was designated as a Foreign Terrorist Organization on October 8, 1997. It was de-listed on September 28, 2012.

An applicant had some dealings with the MEK in (a) 1995; (b) 2000
(c) 2013. Which type of terrorist organization was he dealing with?



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 15

What is to “engage in terrorist activity”?

INA § 212(a)(3)(B)(iv)



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 16

What is to “engage in terrorist activity”?

“Engage in terrorist activity” means, in an individual capacity or as a member of an organization, to –

- (I) commit or to incite to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity
- (II) prepare or plan a terrorist activity
- (III) gather information on potential targets for terrorist activity



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 17

What is to “engage in terrorist activity”?

(IV) solicit funds or other things of value for-

(aa) a terrorist activity;

(bb) a designated terrorist organization (Tier I/II); or

(cc) an undesignated terrorist organization (Tier III) unless the alien can show by clear and convincing evidence that *he/she did not know and reasonably should not have known it* was a terrorist organization

(V) solicit any individual —

(aa) to engage in a terrorist activity;

(bb) to join a designated terrorist organization (Tier I/II); or

(cc) to join an undesignated terrorist organization (Tier III); unless the alien can show by clear and convincing evidence that *he/she did not know and reasonably should not have known it* was a terrorist organization;



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 18

What is to “engage in terrorist activity”?

(VI) Commit an act which the alien *knows or reasonably should know* affords material support –

(aa) for the commission of a terrorist activity;

(bb) to any individual the alien *knows or reasonably should know* has or will commit a terrorist activity;

(cc) to a designated terrorist organization (Tier I/II) or to a member of a designated terrorist organization; or

(dd) to an undesignated terrorist organization (Tier III) or to a member of such an organization unless the actor can demonstrate by clear and convincing evidence *that he or she did not know and should not reasonably have known* that it was a terrorist organization.



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 19

What is “material support”?

INA § 212(a)(3)(B)(iv)(VI)

“I gave food to the rebels.” “I had to pay a ransom.”

“I donated to the party.” “They made me pay a war tax.”

“I’m a doctor so I gave them medical care.”

“I gave them housing for the night.”

“They were fighting for my people so I gave them weapons.”

“I paid them at a checkpoint.”

“I sold bread to the fighters.”



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 20

What is “material support”?

INA § 212(a)(3)(B)(iv)(VI)

The statutory definition of material support includes examples:

- safe house
- transportation
- communications
- funds, transfer of funds, or other material financial benefit
- false documentation or ID
- Weapons (including chemical, biological or radiological), explosives
- training

This is not an exhaustive list.



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 21

What is “material support”?

DHS and the Board of Immigration Appeals have interpreted the term “material support” broadly.

Material support also includes providing:

- food/water
- labor (cleaning, cooking, portering, etc.)
- any commercial transactions
- clothing
- information

There is no requirement that the support actually benefit the terrorist organization or terrorist activity.

There are no time, age, or quantity limitations or statutory exceptions for material support.



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 22

Material Support Considerations

Information to elicit during the interview:

- What did the applicant give or do?
- How many times? Over what period?
- To one group or more than one?
- How the support was used?
- How was the support requested/demanded?
- Who else provided support? Under what circumstances?
- At the time the support was given, what did the applicant know (or what had the applicant heard) about the group or individual to whom support was given?



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 23

Lack of Knowledge Exception

- **RULE:** If the applicant had no knowledge that the individual(s) to whom he or she provided material support belonged to any type of organization then TRIG does not apply at all.
- **Tier I/II RULE:** If the applicant knows the name of the organization at the time the support is given, even if they don't know what the organization is or does, TRIG applies.
- **Tier III RULE:** If the applicant knows the name of the organization at the time the support is given, but doesn't know that the organization engages in violent activity, an exception to TRIG might apply if the asserted lack of knowledge is reasonable.
 - Only applies to undesignated organizations (Tier III) for material support, solicitation of funds and people and membership



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 24

TRIG Exceptions - Examples

A group of foreign tourists went hiking in the mountainous Kurdish region around the borders of Iraq/Iran/Syria/Turkey. They encountered a friendly sheep herder, who invited them into his home and served them food and drinks. As a gesture of thanks, the hikers left him some cash.

While sharing their meal together (before the hikers left cash) . . .

1. The sheep herder told the hikers that he is a member of the Kurdistan Worker's Party (PKK), a Tier I terrorist organization, and:
 - (a) the hikers were aware that the PKK was a terrorist organization;
 - or
 - (b) the hikers had no idea what the PKK was and didn't ask.



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 25

TRIG Exceptions - Examples

2. The sheep herder told the hikers that he is a member of the People's Protection Unit (YPG), a Tier III terrorist organization, and:

(a) the hikers were aware that the YPG carried out violent activity bringing it within the definition of a terrorist organization; or

(b) the hikers had no idea what the YPG was and didn't ask.

3. The sheep herder spoke about nothing but sheep herding and after the herders left the sheep herder:

(a) the hikers learned that the sheep herder is a member of the PKK; or

(b) the hikers learned that the sheep herder is a member of the YPG.



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 26

Material Support Interpretive Guidance

USCIS has developed specific guidance on material support in scenarios involving:

- Theft
- Performing household chores for family members who may be involved with terrorist organizations
- Ransom payments
- Material support does not include being raped or forced to perform sexual acts.



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 27

Ransom Payments and Material Support Interpretive Guidance

IS Material Support	Is NOT Material Support
Contributing money/things of value to ransom (<i>if ransom paid</i>)	Providing to captors a phone number of someone they call to demand ransom
Delivering/dropping off of ransom	Calling your family or others and asking that they contribute money or pay ransom*
	Negotiating ransom with captors
	Collecting contributions to ransom from others (unless you deliver)

* Also not solicitation



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 28

Let's Practice – TRIG?

Fact pattern:

Applicant's son was kidnapped by Al Shabaab. In order to secure his son's release, the applicant contributed his own money, collected money from other family members, and delivered the ransom payment to Al Shabaab.

At the time, Al Shabaab was listed as a Tier I organization.

TRIG: Applicant contributed his own funds toward the ransom payment and delivered the ransom payment to Al Shabaab. Therefore, he has provided material support to a Tier I terrorist organization.

Not TRIG: Collecting funds from others for ransom is not solicitation under INA § 212(a)(3)(B)(iv)(IV). To fall under § 212(a)(3)(B)(iv)(IV), the solicitation must be directly for a terrorist activity or for a terrorist organization. Collecting funds in this scenario is also not considered material support, because it was a preparatory act only.



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 29

Who is inadmissible?

INA § 212(a)(3)(B)(i)



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 30

Who is inadmissible?

Any alien who:

- (I) has engaged in a terrorist activity (past)
- (II) the officer has reasonable ground to believe is engaged or likely will engage in terrorist activity (present and future)
- (III) has incited terrorist activity under circumstances indicating an intention to cause death or serious bodily harm (past)



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 31

Who is inadmissible?

Any alien who –

(IV) is* a representative of a terrorist organization or a group that endorses or espouses terrorist activity

“Representative” is defined at INA § 212(a)(3)(B)(v) and includes spokesmen and officials.

(V) is* a member of a Tier I/II designated terrorist organization

(VI) is* a member of a Tier III undesignated terrorist organization unless that alien can demonstrate by clear and convincing evidence that *he did not know or should not reasonably have known that the organization was a terrorist organization*

* Note the present tense – these inadmissibility grounds cover current affiliation as a representative or member, and do not apply to past affiliation.



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 32

Who is inadmissible?

Any alien who –

(VII) endorses or espouses terrorist activity or persuades others to endorse or espouse terrorist activity or support a terrorist organization

(VIII) has received military-type training from or on behalf of a terrorist organization

▣ “Military-type training” is defined at 18 U.S.C. § 2339D(c)(1):

[T]he term “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...

▣ Marching and physical exercises alone are not considered military-type training.



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 33

Who is inadmissible?

Any alien who –

(IX) is* the spouse or child of an alien who is inadmissible under § 212(a)(3)(B) if the activity making the alien inadmissible occurred within the last five years.

INA § 212(a)(3)(B)(IX)(ii) exception – this inadmissibility ground does not apply if –

- (I) the applicant *did not know or should not reasonably have known* of the spouse's/parent's activity, or
- (II) there are reasonable grounds to believe that the applicant has *renounced* the spouse's/parent's activity

* Note the present tense – for the spouses of inadmissible aliens, the § 212(a)(3)(B)(i)(IX) inadmissibility applies only to current spouses, and does not apply to spouses who are divorced or widowed.

- ▣ For children of inadmissible aliens, the INA § 101(b)(1) definition of a “child” limits this inadmissibility to children who remain unmarried and under 21.



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 34

Most Common TRIG

- INA § 212(a)(3)(B)(i)(I)

Engaging in terrorist activity through involuntary and voluntary material support to a terrorist organization (e.g., food, water, commercial transactions, paying membership dues, and medical care), as outlined under INA § 212(a)(3)(B)(iv)(VI).

- INA § 212(a)(3)(B)(i)(VIII)

Receiving military-type training - involuntary and voluntary



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 35

TRIG?

Based on your understanding after reviewing INA § 212(a)(3)(B), are these applicants inadmissible? If so, for which activities?

- 1) Applicant is a young girl who was kidnapped and held captive by members of an armed group at their camp in the bush. While suffering extreme abuse and rape, she was forced to gather firewood, cook, and clean.
- 2) Applicant is a subsistence farmer. One day, uniformed rebel soldiers passed by and asked him for water. He gave them each one glass of water.
- 3) Applicant is a doctor who provided treatment to anyone who came to his clinic. During the revolution in his country, he stitched and dressed the wounds of some rebel soldiers.
- 4) Applicant is a small boy who was kidnapped by a rebel group and forced to undergo combat training and fight for the group before he managed to escape.



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 36

Exemptions for Terrorism- Related Grounds of Inadmissibility



U.S. Citizenship
and Immigration
Services

Exemption Authority

Exemption authority provided under INA § 212(d)(3)(B)(i)

- Delegates exemption authority to the Secretary of State or DHS Secretary in consultation with each other and the Attorney General.
- The exemption authority applies to most of the INA § 212(a)(3)(B) grounds, with some exceptions.



U.S. Citizenship
and Immigration
Services

How Does an Exemption Work?

1. An applicant is found to be inadmissible under INA § 212(a)(3)(B) for an activity or association that is covered by a TRIG exemption.
2. The applicant establishes eligibility for the TRIG exemption.
3. If the TRIG exemption is granted, the applicant will no longer be inadmissible.
 - TRIG exemptions are not always available
 - Even if a TRIG exemption is available, the exemption may be denied as a matter of discretion after considering the totality of the circumstances.



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 39

Types of TRIG Exemptions

- Situational exemptions
- Group-based exemptions
- Individual exemptions

Individual exemptions are granted by the DHS or DOS Secretary only.



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 40

Threshold Requirements for Exemptions

In order to be considered for a TRIG exemption, the applicant must first establish that he or she satisfies the following “threshold eligibility”:

- Is otherwise eligible for benefit/protection sought;
- Has undergone and passed all relevant background and security checks;
- Has fully disclosed the nature and circumstances of each activity or association with a terrorist organization; and
- Does not pose a danger to the safety and security of the United States.



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 41

Documenting Exemptions

All USCIS adjudicators document determinations on an INA § 212(a)(3)(B) Exemption Worksheet.

The worksheet:

- Reflects reviewer concurrence
- Becomes part of the A-file

TRIG must also be documented in interview notes and assessment:

- Refugee Assessment
 - Inadmissibilities section
 - Holds section
- Asylum Assessment
 - Mandatory bars section



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 42

The Exemption Worksheet (EWS)

Section I: Alien and Case Information

I. Alien and Case Information		
Full Name: Click here to enter text.	DOB: MM/DD/YYYY	COC: Country
A#/Case #: A Number	Benefit/Form Type: <input type="checkbox"/> I-485 <input type="checkbox"/> I-589 <input type="checkbox"/> I-590 <input type="checkbox"/> I-730 <input type="checkbox"/> I-821 <input type="checkbox"/> Other:	

- Make sure all information is correct.
- Note A # and Case # for refugee adjudications.
- Make sure to check the correct benefit/form type.



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 43

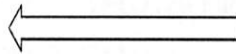
The Exemption Worksheet (EWS)

II. Alien's Eligibility

- Alien is otherwise eligible for the benefit sought, except for a finding(s) of inadmissibility under INA §212(a)(3)(B).
- Alien has passed all required background and security checks.
- Alien has fully disclosed the nature and circumstances of each activity or association within the scope of INA § 212(a)(3)(B).
- Alien poses no danger to the safety or security of the United States.
- Alien meets all additional requirements enumerated in the applicable Exercise of Authority, where applicable.

Description: If alien does not meet one or more of the requirements, explain:

Pending SAO and FP.



- The applicant's threshold eligibility is noted in Section II.
- If a box is not checked, an explanation should be written in the "Description" section.

Tip: See threshold eligibility requirements chart, implementation memos, and exercises of authority



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 44

The Exemption Worksheet (EWS)

Section III. Facts of the Case

III. Facts of the Case

Description: In this space, briefly describe the actions or associations that make the alien inadmissible. (For example, if an alien is inadmissible for providing material support to a terrorist organization, describe the type of support provided as well as to whom, when, and how often the support was provided.) List the specific INA § 212(a)(3)(B) ground(s) under which the alien is inadmissible.

The applicant is inadmissible under INA section 212(a)(3)(B)(i)(I) for providing material support to the Mai Mai militia. The applicant was kidnapped by the Mai Mai in June 2011 and was held for two months. While detained, the applicant was forced to cook three times a day for members.

Section III, Facts of the Case, must include the following:

- The INA ground under which the applicant is inadmissible
- A description of the specific activity the applicant engaged in and how often the applicant engaged in the activity
- The organization name (spelled out)
- The date(s) the activity occurred



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 45

Situational Exemptions



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 46

Situational Exemptions

- Duress:
 - *material support*
 - *military-type training*
 - *solicitation of individuals*
 - *solicitation of funds/other things of value*
- Voluntary provision of medical care
- Certain Limited Material Support (CLMS)
- Insignificant Material Support (IMS)
- Participation in Iraqi uprisings
- Limited General Exemption (LGE)



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 47

Duress Exemptions

Available for:

- Material support
- Military-type training
- Solicitation of individuals
- Solicitation of funds or other things of value

Duress exemptions apply to all tiers – they include not only Tier III terrorist organizations, but also designated Tier I and Tier II terrorist organizations.



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 48

Duress Considerations

Was there a reasonably-perceived threat of serious harm?

Factors to Consider:

- Whether applicant reasonably could have avoided, or taken steps to avoid, carrying out the TRIG
- Severity and type of harm inflicted or threatened
- To whom the threat of harm was directed
- Perceived imminence of the harm threatened
- Perceived likelihood that the threatened harm would be inflicted
- Any other relevant factor(s)



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 49

Let's Practice – TRIG Exemption?

Facts of the case:

A Colombian applicant worked as a truck driver in his home town. One day while making a delivery, he was approached by two armed Revolutionary Armed Forces of Colombia (FARC) guerillas. They ordered him to transport boxes to a neighboring town. He reluctantly agreed after being threatened at gunpoint by the guerillas. Following the first incident, he was approached several more times to transport goods for the FARC, and he did so. When he refused to continue doing so, the FARC threatened to kill him and his family.

At the time of the applicant's involvement, the FARC was designated a Tier I organization.

Exemption?



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 50

Assessment:

Applicant provided material support under duress to the FARC, a Tier I terrorist organization.

In April 2007, the Secretaries of Homeland Security and State exercised their discretionary authority not to apply the terrorist-related inadmissibility grounds to applicants that provided material support under duress to the Tier I and II terrorist organizations, such as the FARC. (A separate exercise of authority also exempts material support under duress to Tier III groups.)

Thus, applicant may eligible for a TRIG exemption if there was sufficient duress *on each occasion* he assisted the FARC.



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 51

The Exemption Worksheet (EWS)

Section IV A. Exemption Eligibility

IV. Exemption Eligibility

A. Eligibility for Group-Based, Individual, or Situational Exemptions [For LGE, CLMS & IMS Exemptions, see IV.B.-D.]

- GROUP-BASED EXEMPTION. Group name: _____
- INDIVIDUAL EXEMPTION AUTHORIZED. File contains copy of signed Exercise of Authority
- SITUATIONAL EXEMPTION.

Organization Name (if applicable; insert "unnamed" if appropriate): Mai Mai

Tier I Tier II Tier III

Exemption Type:

Iraqi Uprisings; Material Support under Duress to Tier I/II Organization; Material Support under Duress to Tier III Organization; Medical Care; Receipt of Military-Type Training under Duress; Solicitation of Funds/Other things of Value under Duress; Solicitation of Individuals under Duress; Other, explain:

[For the Limited General Exemption, the Certain Limited Material Support Exemption, and the Insignificant Material Support Exemption, complete Sections IV.B.-D. below, as applicable.]

Description: In this space, briefly describe: (1) Any relevant factors related to the alien, including, if duress factors are at issue, basis for finding that circumstances did or did not rise to duress; (2) If applicable, activities that qualify an undesignated group as a terrorist organization; and (3) Any other required factors, including whether the applicant qualifies for an exemption in the totality of the circumstances.

The Mai Mai is an armed militia that engages in terrorist activity such as kidnapping and violence against local populations and it therefore meets the definition of an undesignated terrorist organization. The applicant cooked for Mai Mai members only when she was being held captive by them. The applicant was beaten daily by the Mai Mai members who told her that if she refused to cook for them, they would kill her. The applicant saw the Mai Mai members kill other captives who refused their orders. Therefore the material support was given under duress and an exemption should be granted in the totality of the circumstances.



U.S. Citizenship
and Immigration
Services

DRAFT-FOUO 52