



U.S. Citizenship and Immigration Services

BASIC

TERRORIST-RELATED INADMISSIBILITY GROUNDS (TRIG)

INSTRUCTOR GUIDE

June 2012

COURSE TITLE: Terrorist-Related Inadmissibility Grounds

COURSE NUMBER: 234

COURSE DATE: MAY 2012

LENGTH AND METHOD OF PRESENTATION:

Lecture	Lab	P.F.	Total	Program
4:00	0:00	0:00	4:00	BASIC

DESCRIPTION:

This course reviews the terrorist-related inadmissibility grounds (TRIG) under INA section 212(a)(3)(B)(i), the applications to which such grounds apply, and the currently available exemptions to the inadmissibility grounds.

TERMINAL PERFORMANCE OBJECTIVE (TPO):

Given a field situation calling for adjudication of an application for an immigration benefit, the officer will identify facts and situations giving rise to the terrorist-related inadmissibility grounds (TRIG) and determine whether or not the grounds apply. If a TRIG ground does apply, the officer will further ascertain if an exemption is available, and correctly apply the relevant inadmissibility ground(s) and USCIS policy to adjudicate such an exemption (or exemptions).

ENABLING PERFORMANCE OBJECTIVE (EPOs):

EPO #1: Identify basic principles of the terrorist-related inadmissibility grounds, the scope of the provisions, and to which benefits TRIG applies

EPO #2: Specify activities or associations giving rise to TRIG (INA § 212(a)(3)(B)(i))

EPO #3: Describe the definition of “Terrorist Activity” under INA § 212(a)(3)(B)(iii)

EPO #4: Describe the definition of “Engage in Terrorist Activity” under INA § 212(a)(3)(B)(iv)

EPO #5: Identify the three types of terrorist organizations described in INA 212(a)(3)(B)(vi)

EPO #6: Identify the exceptions to and exemptions from the terrorist grounds of inadmissibility

EPO #7: Identify the criteria for placing cases on hold pursuant to the USCIS TRIG Hold Policy, and demonstrate familiarity with the exception(s) to the Hold Policy

METHOD OF EVALUATION:

Written Examination, multiple choice, open book.

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I. INTRODUCTION

A. Opening

This course examines the terrorist-related inadmissibility grounds (TRIG) at INA § 212(a)(3)(B). This class also examines the currently available exemptions for TRIG and their requirements and scope.

The TRIG inadmissibilities are also grounds for deportability - INA § 237(a)(4)(B) renders an alien deportable if he or she is inadmissible under section 212(a)(3)(B).

The material in this class is very important as it covers national security issues.

Even when it is determined that the alien is not statutorily barred or inadmissible based for reasons of TRIG, the factors that led to an examination of potential inadmissibility and statutory ineligibility may be applicable to discretionary benefit applications.

If a TRIG bar does apply to a benefit application, USCIS officers must be able to identify which TRIG bar(s) apply, identify any applicable exceptions or exemptions or lack thereof, and adjudicate the case to completion by utilizing the TRIG Exemption Worksheet or placing the case on hold per agency policy. New exemptions become available on an ongoing basis, and the officer must be aware of all available exemptions, applicable USCIS implementation guidance, the proper use of the USCIS TRIG ECN site, and agency hold policies.

B. Lesson Plan Overview

The TRIG grounds are broken into the following sections: (a) inadmissibility grounds under INA § 212(a)(3)(B), (b) definition of “terrorist activity,” (c) definition of “engaging in terrorist activity,” (d) definitions of “terrorist organizations,” and (e) exemptions available at the time of the adjudication.

II. PRESENTATION

A. EPO #1: Identify basic principles of the terrorist-related inadmissibility grounds, the scope of the provisions, and to which benefits TRIG applies

1. Introduction

- a. INA §§ 212(a)(3)(B) applies to most benefits. It is not, however, applicable to naturalization.
 - 1) Most past activity is covered by the TRIG.
 - 2) Congress has amended 212(a)(3)(B) several times over the years, broadening the reach of the statute each time. All these amendments are effective retroactively. Thus an applicant who was eligible for asylum in 2003 may now be ineligible for adjustment of status due to a change in the law. If an exemption is currently unavailable, the case is placed on hold in the expectation that a future exemption may become available.
 - 3) When the Form I-589 was filed may matter with respect to asylum and withholding eligibility. 8 C.F.R. §§ 208.13(c)(2)(i)(F), 1208.13(c)(2)(i)(F).
 - a) This is not true for subsequent adjustment by a refugee or an asylee under INA § 209; *see also* 8 C.F.R. §§ 209.1 (refugees) and 209.2 (asylees).

INSTRUCTOR NOTE: Asylum application rules. Unlike every other application, the regulations for asylum have special rules where an older version of the law is applied for applications filed before April 1, 1997. However, the current version of TRIG applies at the time of adjustment of an asylee's adjustment application. There are therefore some aliens who are ineligible to adjust due to terrorist activities who nonetheless properly, under the current regulation, have valid asylee status.

- 2. INA §§ 212(a)(3)(B) applies to:
 - a. Adjustment of status – INA §§ 245(a)(2); 245(c)(6)
 - b. Asylum – INA § 208(b)(2)(A)(v), withholding of removal – INA § 241(b)(3)(B) and refugee admission – INA § 207(c)(3)
 - c. Cancellation of removal – INA § 240A(c)(4)
 - d. INA § 212(c) waiver (as it existed until 1997); 8 C.F.R. § 212.3(f)(3)
 - e. Temporary Protected Status (TPS) – INA §§ 244(c)(2)(A)(iii)(III); 244(c)(2)(B)(ii)

- f. Family Unity – 8 C.F.R. § 236.13(c)
 - g. T non-immigrant status – 8 C.F.R. § 212.16(b)(1)
 - h. I-730 Relative Petitions for asylum and refugee derivatives – 8 C.F.R. § 208.21(a)
3. INA §§ 212(a)(3)(B) and (F) do **NOT** bar:
- a. Naturalization
 - b. Employment authorization (EAD)
 - c. Visa petitions (other than I-730s)
 - d. Convention Against Torture (CAT) deferral of removal

INSTRUCTOR NOTE: Deferral of Removal under CAT

Deferral of removal is a form of relief from removal that an applicant can never become ineligible for based on misconduct. There are no exceptions at all if it is more likely than not that a person will be tortured. Withholding of removal under CAT does have bars, but deferral of removal does not.

4. Scope of INA § 212(a)(3)(B)

INSTRUCTOR NOTE: INA § 212(a)(3)(B).

Was created by the Immigration Act of 1990 (IMMACT 90) and amended several times since then.

- a. INA § 212(a)(3)(B) covers more conduct than any of the over 20 other federal legal definitions of terrorism
- b. It has been expanded by the USA PATRIOT and the REAL ID Acts, among others
- c. Terrorist Activity under INA § 212(a)(3)(B) includes more than the general understanding of terrorism
- d. Many aliens are inadmissible under INA § 212(a)(3)(B) who would not be considered terrorists by other U.S. laws, the media, or the general public.
- e. Comments on the scope of 212(a)(3)(B):
 - 1) “[T]he statutory language is breathtaking in its scope.” *Matter of S-K*, 23 I&N Dec. 936, 948 (BIA 2006) (Osuna, concurring). This case may be found at: <http://www.usdoj.gov/eoir/vll/intdec/vol23/3534.pdf>.

- 2) “Congress’s definition of ‘terrorist activity’ sweeps in not only the big guy, but also the little guy who poses no risk to anyone.” *McAllister v. Attorney General*, 444 F.3d 178, 191 (3d Cir. 2006) (Barry, J., concurring)

INSTRUCTOR NOTE: Judge Barry on *McAllister*.

While Judge Barry’s comments are correct, *McAllister* was hardly a small guy. Heavily involved in violent, deadly actions in Northern Ireland.

5. Terrorist activity is not limited to any one part of the world but can be found anywhere the world.
6. There is no exception for “freedom fighters,” or groups the U.S. supports or has supported in the past.
7. INA § 212(a)(3)(B) contains separate definitions for “terrorist activity,” “engage in terrorist activity,” and definitions of “terrorist organizations.”

INSTRUCTOR NOTE: Complexity of INA § 212(a)(3)(B)

Section 212(a)(3)(B) is an extremely complex portion of the INA. The actual grounds of inadmissibility are found at 212(a)(3)(B)(i), but the definition of “engage in terrorist activity” in section 212(a)(3)(B)(iv) contains many of the primary the activities that bring an applicant within TRIG. It is important to note that, while reference must be made to section 212(a)(3)(B)(iv), as well as section 212(a)(3)(B)(iii) (which defines “terrorist activity”) in order to ascertain if an applicant is ineligible under a TRIG bar, the actual ground of inadmissibility will always be under section 212(a)(3)(B)(i). The most common ground is section 212(a)(3)(B)(i)(I), “has engaged in terrorist activity.”

8. Terrorist activity as defined in the INA can be committed in the United States. This is unlike the grounds of inadmissibility for torture and extrajudicial killing which must occur outside of the U.S.
9. Remember that lodging charges of inadmissibility or deportability in removal proceedings based on these grounds requires USCIS supervisory approval in consultation with USCIS Office of the Chief Counsel (OCC), and ICE OPLA approval.

B. EPO #2: Specify activities or associations giving rise to TRIG (INA § 212(a)(3)(B)(i)):

1. Under INA § 212(a)(3)(B)(i), an alien is inadmissible who:
 - a. Has engaged in a terrorist activity – INA § 212(a)(3)(B)(i)(I)
 - 1) This only refers to past activity
 - 2) Both “terrorist activity” and “engaging in terrorist activity” are discussed later in the materials
 - 3) Most commonly cited TRIG ground by far.
 - b. The Government knows, or has reasonable ground to believe, is engaged or likely will engage in terrorist activity – INA § 212(a)(3)(B)(i)(II)
 - 1) This refers to present and future activity
 - 2) The reasonable grounds standard is a lower standard and is satisfied when there is sufficient information for a reasonable person to believe the standard is met. *Matter of A-H-*, 23 I&N Dec. 774, 789 (A.G. 2005), found at <http://www.usdoj.gov/eoir/vll/intdec/vol23/3515.pdf>
 - 3) This ground **cannot** be exempted. *See* section 212(d)(3)(B)(i).
 - c. Has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorist activity – INA § 212(a)(3)(B)(i)(III)
 - 1) This is one of 2 speech related provisions.
 - 2) This ground requires that the incitement of terrorist activity include an intention to cause harm or serious bodily injury.
 - d. Is a representative of:
 - 1) A terrorist organization (designated and undesignated) - INA § 212(a)(3)(B)(i)(IV)(aa), or
 - 2) A group that endorses or espouses terrorist activity – INA § 212(a)(3)(B)(i)(IV)(bb)
 - 3) “Representative” is broadly defined under INA § 212(a)(3)(B)(v) to include “an officer, official, or spokesman of an organization, and any person who directs, counsels, commands, or induces an organization or its members to engage in terrorist activity.”

- e. Is a member of a designated terrorist organization (present tense) – INA § 212(a)(3)(B)(i)(V)
 - 1) Language only refers to present tense: “is a member.”
 - 2) State Department Foreign Affairs Manual (FAM) also states that it only applies to current members (9 FAM § 40.34 N5.1)
 - 3) No knowledge of nature of organization required – contrast the following section regarding undesignated organizations.

- f. Is a member of an undesignated terrorist organization unless the alien can show by clear and convincing evidence that he or she reasonably did not know that it was a terrorist organization – INA § 212(a)(3)(B)(i)(VI). The lack of knowledge exception is discussed in more detail later.

- g. Endorses or espouses terrorist activity or persuade others to endorse or espouse terrorist activity or support a terrorist organization – INA § 212(a)(3)(B)(i)(VII)
 - 1) This is the second speech-related provision. Unlike the incitement provision, there is no requirement that the speaker intend to cause death or serious bodily harm.

- h. Has received military-type training from or on behalf of a designated or undesignated terrorist organization – INA § 212(a)(3)(B)(i)(VIII)
 - 1) Organization has to be a terrorist organization at the time of the training
 - 2) Military-type training is defined to include “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.” 18 U.S.C. § 2339D(c)(1)

- i. Is the spouse or child of an alien who is inadmissible under this section if the activity making the alien inadmissible occurred within the last five years. INA § 212(a)(3)(B)(i)(IX)
 - 1) Unless he/she—
 - a) Did not know or should not reasonably have known of the activity causing the relative to be found inadmissible under this section – INA § 212(a)(3)(B)(i)(IX)(ii)(I); or

- b) An officer has reasonable grounds to believe the spouse or child has renounced the relative's terrorist activities - INA § 212(a)(3)(B)(i)(IX)(ii)(II). (This can be done in the context of an interview.)
 - 2) Note that child means unmarried and under 21. INA § 101(b)(1)
- j. An alien who is an officer, official, representative, or spokesman of the Palestinian Liberation Organization (PLO) is considered to be engaged in a terrorist activity - INA § 212(a)(3)(B)(i)(IX)
 - 1) Language refers to present tense
 - 2) An applicant who falls within this provision, would be inadmissible under 212(a)(3)(B)(i)(II) for being currently engaged in terrorist activity

INSTRUCTOR NOTE: Referring to PLO by name in INA. This is the only instance where the INA itself refers to an organization in the terrorism provisions. In separate legislation not in the INA (discussed later), Congress has explicitly made the Taliban a Tier I terrorist organization.

C. EPO #3: Describe the definition of “Terrorist Activity” under INA § 212(a)(3)(B)(iii)

1. Terrorist activity under INA § 212(a)(3)(B)(iii) “means any activity which is unlawful under the laws of the place where it is committed (or which, if it had been committed in the United States, would be unlawful under the laws of the United States or any State) and which involves any of the following:” In other words, the activity must be either illegal here in the U.S. or illegal where it occurred and involve:
 - a. Hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle) – **INA § 212(a)(3)(B)(iii)(I)**
 - 1) This includes piracy and mutiny of ships
 - b. Kidnapping, seizing or detaining, and threatening to kill, injure, or continue to detain, another person in order to compel an action by a third party as a condition for release of the individual seized or detained – **INA § 212(a)(3)(B)(iii)(II)**
 - 1) Compelling the detained person to do something is not included. It must be a person other than the kidnapping victim who is being compelled to act. For example, kidnapping a nurse to make the nurse give medical care does not qualify as terrorist activity under this particular provision of the INA.
 - c. A violent attack upon an internationally protected person, meaning:
 - 1) Head of State or Foreign Minister and their family members when outside of their country or
 - 2) Diplomat, or other government or international organization employee and their family members – **INA § 212(a)(3)(B)(iii)(III)**
 - d. An assassination – **INA § 212(a)(3)(B)(iii)(IV)**
 - 1) Assassination is not defined but usually means killing a head of state or other high-ranking official. Unlike the violent attack provision, no requirement that the head of state be outside of his/her own country.

INSTRUCTOR NOTE: Use of firearms

The use of firearms or other dangerous devices is one of the most inclusive provisions of the section. This is one of the provisions that subjects many applicants to the TRIG grounds.

- e. Use of any—

- 1) Biological agent, chemical agent, or nuclear weapon or device, or
 - 2) Explosive, firearm, or other weapon or dangerous device (other than for mere personal monetary gain) – INA § 212(a)(3)(B)(iii)(V)
 - 3) Both parts require an intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property.
 - 4) The explosive, firearm or other weapon provision –
 - a) There is no requirement that the use of weapons be targeted at civilians to be terrorist activity
 - b) No exception for self-defense or repelling an attack. However, it must be illegal to qualify as terrorist activity. Therefore, if one engages in self-defense in a lawful manner, then that activity does not fall within the definition of “terrorist activity.”
 - c) Makes resistance groups that use violence “terrorist organizations” (more on the definition of terrorist organizations to follow)
 - f. A threat, attempt, or conspiracy to do any of the foregoing – **INA § 212(a)(3)(B)(iii)(VI)**
2. Remember that the terrorist activity must be against a law either where it is performed or if it were done in the U.S.
 3. Remember also that the definition of “terrorist activity” is different from the definition of “engage in terrorist activity,” which is broader.

D. EPO #4: Describe the definition of “Engage in Terrorist Activity” under INA § 212(a)(3)(B)(iv)

INSTRUCTOR NOTE: “Engage in terrorist activity” definition. There are 6 parts to this definition. The first 3 are directly related to terrorist activity. The last 3 are related to assisting terrorist activity or a terrorist organization.

1. “The term ‘engage in terrorist activity’ means, in an individual capacity or as a member of an organization —
 - a. To commit or incite to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity – INA § 212(a)(3)(B)(iv)(I)
 - b. To prepare or plan a terrorist activity – INA § 212(a)(3)(B)(iv)(II)
 - c. To gather information on potential targets for terrorist activity – INA § 212(a)(3)(B)(iv)(III)
 - d. To solicit funds or other things of value for –
 - 1) A terrorist activity – INA § 212(a)(3)(B)(iv)(IV)(aa)
 - 2) A designated terrorist organization – INA § 212(a)(3)(B)(iv)(IV)(bb) or
 - 3) An undesignated terrorist organization unless alien can show by clear and convincing evidence that he or she reasonably did not know that it was a terrorist organization – INA § 212(a)(3)(B)(iv)(IV)(cc)
 - e. To solicit any individual—
 - 1) To engage in a terrorist activity INA § 212(a)(3)(B)(iv)(V)(aa)
 - 2) To join a designated terrorist organization – INA § 212(a)(3)(B)(iv)(V)(bb) or
 - 3) To join an undesignated terrorist organization unless alien can show by clear and convincing evidence that he or she reasonably did not know that it was a terrorist organization – INA § 212(a)(3)(B)(iv)(V)(cc). The lack of knowledge exception is discussed in more detail later.

INSTRUCTOR NOTE: Material support

The material support provision discussed next is the most often applied part of the definition of engaging in terrorist activity for USCIS and, arguably, of INA § 212(a)(3)(B). Most of the aliens in our cases who are subject to INA § 212(a)(3)(B) are inadmissible for providing something that falls within the interpretation of material support. This provision is significantly broader than the criminal law on material support which is limited to fewer organizations and fewer activities.

- f. Committing an act which the person knows, or reasonably should know, “affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons, explosives or training-”
 - 1) For the commission of a terrorist activity – INA § 212(a)(3)(B)(iv)(VI)(aa)
 - 2) To a person the alien knows or reasonably should know has or plans to commit a terrorist activity – INA § 212(a)(3)(B)(iv)(VI)(bb)
 - 3) For a designated a terrorist organization or to a member of a designated organization – INA § 212(a)(3)(B)(iv)(VI)(cc) or
 - 4) To an undesignated terrorist organization or to a member of such an organization unless alien can show by clear and convincing evidence that he or she reasonably did not know that it was a terrorist organization – INA § 212(a)(3)(B)(iv)(VI)(dd). The lack of knowledge exception is discussed in more detail later.

g. **More on material support**

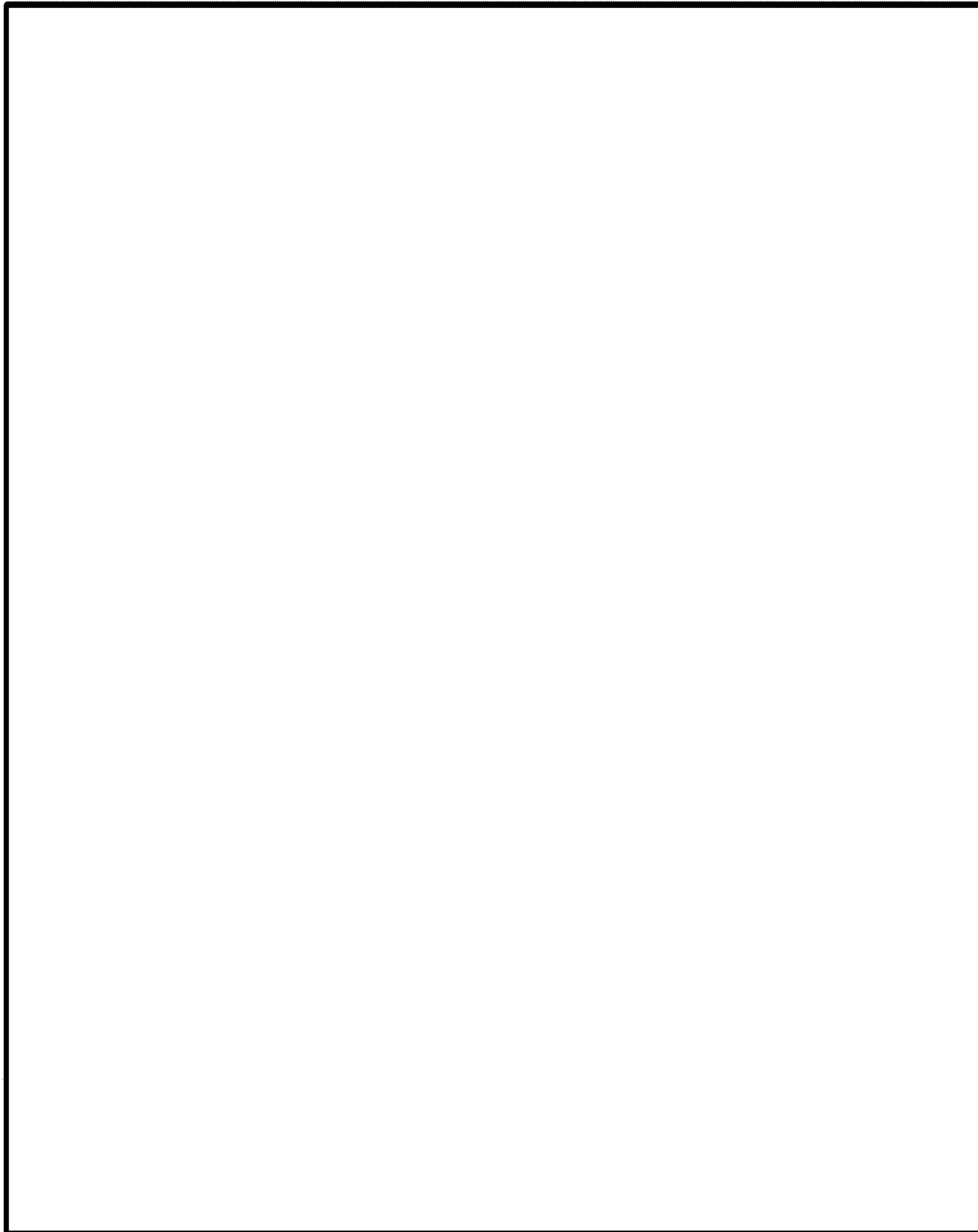
- 1) No need for support to benefit terrorist activity.
- 2) Covers “virtually all forms of assistance” (*Matter of S-K-*, *supra*), i.e., no “de minimus” exception.
- 3) No exception for routine commercial transactions – even if a fair market exchange of goods/services takes place, this does not mean that the goods/services supplied to the terrorist organization is not material support
- 4) No duress exception in the statute.
- 5) No age exception, although capacity issues may be considered
- 6) Requires an act that affords material support. For example, having something taken from you by terrorists would not itself be considered material support.
- 7) Remember that material support is not the only way to engage in terrorist activity – some material support is an independent ground of engaging in terrorist activity (e.g., gathering information on potential targets).

h. Material support issue spotting – look for testimony or evidence that an applicant provided:

(b)(7)(e)

1

(b)(7)(e)



E. EPO #5: Identify the three types of terrorist organizations described in INA § 212(a)(3)(B)(vi):

1. There are three categories of terrorist organizations defined in the INA that are frequently referred to as “The Tiers”:
 - a. “Tier I” – Foreign Terrorist Organizations
 - b. “Tier II” -- Terrorist Exclusion List
 - c. “Tier III” – “Undesignated” Terrorist Organizations

2. Foreign Terrorist Organization, Tier I, designated by the Secretary of State under INA § 219 – INA § 212(a)(3)(B)(vi)(I). The “FTO” list:
 - a. Includes the well-known terrorist organizations such as al Qaeda, Hamas, ETA, Shining Path, FARC
 - b. The Taliban is a Tier I terrorist organization. Congress declared in the “Consolidated Appropriations Act, 2008,” Pub. L. No. 110-161 (Dec. 26, 2007), that the Taliban is a Tier I terrorist organization for purposes of INA § 212(a)(3)(B).
 - 1) Taliban is not an FTO designated by DOS, but is a terrorist organization for purposes of INA § 212(a)(3)(B) by virtue of the legislation. This is why the group does not appear on the Tier I FTO list.
 - 2) Taliban is the militant group that ran Afghanistan prior to their ouster in the wake of 9/11
 - c. List of FTOs can be found at <http://www.state.gov/s/ct/rls/other/des/123085.htm>.

INSTRUCTOR NOTE: Terrorist Exclusion List.

The term “terrorist exclusion list” is not in the statute but has been adopted by the State Department for the list.

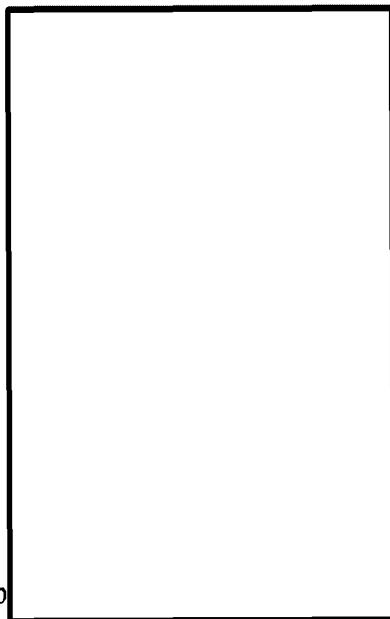
3. Terrorist Exclusion List (TEL) Tier II--an organization designated by the Secretary of State in consultation with or at the request of DHS or DOJ after finding that it engages in terrorist activity – INA § 212(a)(3)(B)(vi)(II)
 - a. Includes the Lord’s Resistance Army, Babbar Khalsa, Communist Party of Nepal
 - b. List can be found at: <http://www.state.gov/j/ct/rls/other/des/123086.htm>
 - c. Same immigration consequences as FTOs

INSTRUCTOR NOTE: Differences between Tier I and Tier II.
While the process and requirements to be added to the lists vary, the immigration consequences are identical. There are many more consequences outside of immigration law for the Foreign Terrorist Organizations than for TEL groups, but not in immigration law.

- 4. Undesignated Terrorist Organization. Tier III, - “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” – INA § 212(a)(3)(B)(vi)(III)
 - a. Because of broad sweep of “terrorist activity” definition at INA § 212(a)(3)(B)(iii)(V) (“use of an explosive, firearm, or other weapon or dangerous device (other than for mere personal monetary gain)” with an intent “to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property” **armed resistance groups and guerillas meet the definition of undesignated terrorist organizations**
 - b. No need for organization to endanger U.S. national security. *Indeed, the organization can even be helping the United States and qualify as a terrorist organization*
 - c. No need even for a name (unorganized)
 - d. No exception for “freedom fighters”
 - e. Gangs usually don’t qualify as Tier III terrorist organizations because of their criminal focus (i.e., their activities further personal monetary gains).

5. Undesignated terrorist organizations - Issue spotting

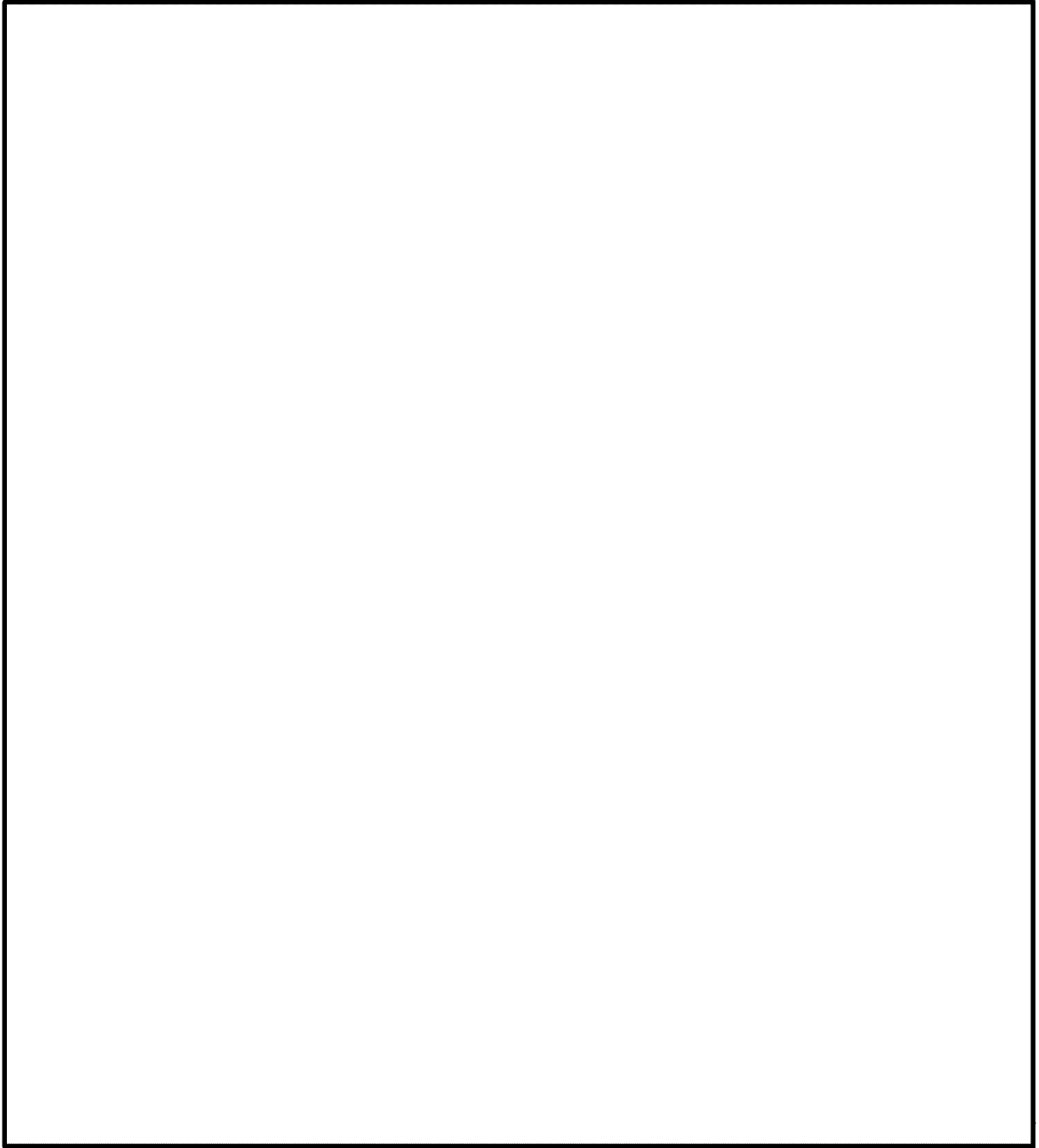
- a. Key words



(b)(7)(e)

b

(b)(7)(e)



F. EPO #6: Identify the exceptions to and exemptions from the terrorist grounds of inadmissibility

EXCEPTIONS

1. **Exception from TRIG grounds exemption for Non-immigrants** - Non-immigrants can be admitted for temporary visits under INA § 212(d)(3)(A):
 - a. In the discretion of the Secretary of Homeland Security or Secretary of State
 - b. Despite terrorist-related grounds or any other ground of inadmissibility except for some of the other security-related provisions at INA § 212(a)(3)
 - c. Under such conditions as appropriate including payment of bond to regulate the admission and return of the alien
 - d. Note that USCIS does not adjudicate this provision, only Customs and Border Protection (CBP) and the Department of State

2. **Individual Knowledge Exception for Tier III Organizations**
 - a. Exception for the membership inadmissibility ground (INA 212(a)(3)(B)(i)(VI)) and for the engaging in terrorist activity grounds of soliciting funds (INA 212(a)(3)(B)(iv)(IV)(cc)), soliciting people (INA 212(a)(3)(B)(iv)(V)(cc)), and providing material support (INA 212(a)(3)(B)(iv)(VI)(dd)) for undesignated organizations (Tier III) when alien “**can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization.**”
 - 1) High burden of proof - requires both lack of knowledge (subjective) and that a reasonable person would not have known (objective)
 - 2) Does not apply to designated (Tier I and II) organizations, no matter how reasonable the lack of knowledge
 - 3) What is reasonable lack of knowledge?
 - a) What did the applicant know about the group?
 - b) Did the group make clear what its aims were or what the support would be used for?
 - 4) **The context/country conditions** (probably the most important factor for determining reasonableness)

- 5) Any other information which will help you determine whether it is reasonable for the applicant to not know that the group is an undesignated terrorist organization
 - b. What is “clear and convincing evidence?”
 - 1) More than preponderance of the evidence
 - 2) Less than beyond a reasonable doubt
 - c. This exception does not apply to receiving terrorist training or being a representative of an undesignated terrorist organization.
 - d. Remember: Lack of knowledge exception **only** applies to involvement with undesignated organizations
3. Material Support knowledge exception (INA 212(a)(3)(B)(iv)(VI)). The provision relating to material support reads: “to commit an act **that the actor knows or reasonably should know affords material support . . .**”
 - a. It is therefore possible, although unlikely, that an individual could supply material support to a member of a terrorist organization and not know it was material support. For example, an illiterate individual asked to distribute flyers promoting a rally for a Tier III organization could be said to not know s/he was providing material support if s/he had no idea what the flyers said. In reality, these cases are rarely if ever seen.

EXEMPTIONS

1. In General: Realizing the broad scope of TRIG, Congress in the 2005 REAL ID Act created, and then expanded in the 2008 CAA, discretionary authority to the Secretary of Homeland Security or the Secretary of State, after consultation with each other and the Attorney General, to exempt certain activities and associations from the terrorism-related grounds of inadmissibility.

Exemptions to date fall in to 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 signs the exemption documents and the USCIS Director issues implementing guidance, USCIS posts via the USCIS Intranet the exemption document along with a corresponding policy memorandum or fact sheet that provides further guidance to adjudicators on implementing the new discretionary exemption.

In each of the exercises of exemption authority to date, the Secretary of Homeland Security delegated to USCIS, in consultation with ICE, the authority to determine whether a particular alien meets the criteria required for the exercise of the exemption.

2. Criteria: In order to be eligible for an exemption, all applicants must meet specific criteria that can be divided into at least three and often four categories: (1) threshold requirements; (2) the criteria of the exemption itself; (3) the duress factors (if duress is required for the exemption; and (4) the factors to consider in the totality of the circumstances. The implementation guidance for each exemptions sets forth the applicable criteria and should be consulted when adjudicating exemptions. (The implementation guidance can be found on the USCIS TRIG ECN site.)

A. Threshold Requirements: In order to be considered for any existing exemption from the one of the terrorism-related grounds of inadmissibility, an applicant must meet the following threshold requirements:

- a. Establish that he or she is otherwise eligible for a visa or the immigration benefit or protection being sought
- b. Undergo and pass all required background and security checks
- c. Fully disclose, in all relevant applications and interviews with U.S. Government representatives and agents, the nature and circumstances of each terrorism related activity or association
- d. Establish that he or she poses no danger to the safety and security of the United States

Some exemptions contain additional threshold requirements.

B. Requirements of the Exemption: If the applicant meets the four threshold requirements, then the next step is to consider whether the applicant meets the requirements of the exemption itself. For example, if the exemption applies only to material support to a particular terrorist organization, then any other activity besides material support (even if the applicant also provided material support) would make him or her ineligible for the exemption (as would material support to a terrorist organization other than the one for which the exemption applied).

C. Duress Factors (if applicable): If duress is required for an exemption, then specific duress factors will be detailed for the exemption. The factors vary slightly, but at the minimum, there has to have been a reasonably-perceived threat of serious harm under which the material support was provided. In general the duress factors require consideration of the following issues:

1. Whether the applicant could have reasonably avoided the TRIG activity (e.g., providing material support);
2. The severity and type of harm inflicted or threatened;
3. To whom the threat of harm was directed (e.g., the applicant, the applicant's family, the applicant's community, etc.);

4. The perceived imminence of the harm threatened; and
5. The perceived likelihood that the threatened harm would be carried out (e.g., based on instances of past harm to the applicant, to the applicant's family, to the applicant's community, and the manner in which harm was threatened, etc.). In addition, country conditions play a significant role in this determination. For example, if a group's atrocities against those it perceives as resisting its demands is well known, then overt threats of violence are not required.
6. Any steps the applicant took to stop the TRIG activity (e.g., moving, escape, reporting to authorities, etc.) The test here is one of reasonableness: USCIS does not require attempts to escape or other actions if to do so would make the threatened harm more likely and/or more severe.

D. Totality of the Circumstances: Finally, if all the above requirements have been met, the adjudicator must then consider whether the applicant merits an exemption in the totality of the circumstances. This is a general discretionary analysis that takes into account any and all relevant factors in considering whether an exemption is warranted. A non-exhaustive list of appropriate factors includes:

- 1) The amount and type of material support provided
- 2) The frequency with which support was provided
- 3) The nature of activities committed by the terrorist organization
- 4) The length of time that has passed since support was provided
- 5) The applicant's conduct since support was provided

3. Exemptions that cannot be granted under the statute:

1. **INA § 212(a)(3)(B)(i)(II):** For an individual the Secretary of Homeland Security knows, or has reasonable ground to believe, is engaged in or is likely to engage after entry in any terrorist activity; or
2. Voluntary activity/association on behalf of a Tier I or Tier II terrorist organization.

4. Processing an Exemption: All USCIS exemptions are processed using the USCIS Exemption Worksheet. All Worksheets should be submitted for further supervisory review.

G. Group-based Exemptions for Selected Undesignated Terrorist Organizations

- a. Secretary of Homeland Security or Secretary of State in consultation with each other and the Attorney General can determine that an organization should not be considered a terrorist organization. **INA § 212(d)(3)(B)(i)**

- 1) **This group exemption authority has never been used.** Instead, the group-based exemptions pertain to the activity or association with the group, which itself remains a Tier III organization.
- b. **In general:** Group-based exemptions are designed to exempt activities or associations with groups that do not pose a threat to the United States. **Three important items to bear in mind:**
 - 1) Duress is not required for a group based exemption
 - 2) The nature of the exemptible activity can vary with some groups having broader exemption authorities than others
 - 3) There may be additional requirements for certain groups (such as not targeting noncombatant persons or U.S. interests)
- c. **History:** Secretary of State Rice exercised her authority to waive the material support provision three times in 2006 in the refugee program context for Burmese Karen individuals living in various camps in Thailand who provided material support to the Karen National Union or Karen National Liberation Army and for Chin refugees from Burma living in Malaysia, India or Thailand who provided material support to the Chin National Front or Chin National Army.
 - 1) Then in 2007, after TRIG essentially brought the refugee program in Colombia to a halt, Secretary Chertoff authorized an exemption for duress-based material support to the FARC, along with additional duress based exemptions for the ELN and AUC.
- d. **The 10 CAA Groups:** As a result of the broad reach of the statute and its application to groups either to which the U.S. is sympathetic or who have assisted the U.S. in the past, Congress enacted Section 691(b) of the Consolidated Appropriations Act, 2008, which stated that the following groups shall not be considered to be terrorist organizations on the basis of any act or event occurring *before* December 26, 2007:
 - (1) Karen National Union/Karen Liberation Army (KNU/KNLA) (Burma);
 - (2) the Chin National Front/Chin National Army (CNF/CNA) (Burma);
 - (3) the Chin National League for Democracy (CNLD) (Burma);
 - (4) the Kayan New Land Party (KNLP) (Burma);
 - (5) the Arakan Liberation Party (ALP) (Burma);
 - (6) Tibetan Mustangs (Tibet);
 - (7) the Alzados (Cuba);
 - (8) the Karenni National Progressive Party (KNPP) (Burma);
 - (9) appropriate groups affiliated with the Hmong (Laos); and
 - (10) appropriate groups affiliated with the Montagnards (Viet Nam).

- b) **Applicants inadmissible for providing material support or soliciting members or funds for these organizations are not considered inadmissible.** Congress specified, however that if any of the 10 groups engaged in activities after December 26, 2007 that would make the group a “terrorist organization,” that group would revert to being a Tier III organization as of the date of the activity.
- c) The CAA does not cover activities where “terrorist organization” is not part of the inadmissibility ground (i.e., combatants). There is another exemption that covers these individuals that is discussed below.
- d) **There are two organizations that have carried out terrorist activity post December 26, 2007: KNU/KNLA and KNPP. If an applicant has activities or associations with these organizations on or after December 26, 2007, they do not qualify for the automatic relief.** They are, however, eligible for consideration of an exemption as set forth below.
- e) Congress amended the CAA on July 1, 2008 to add the African National Congress to the list of groups not to be considered a terrorist organization for activities carried out prior to December 26, 2007.
- f) On June 3, 2008, the Secretary of Homeland Security and the Secretary of State, in consultation with each other and the Attorney General, exercised their authority not to apply all of the exemptible TRIG provisions to individuals for activities and associations with the ten groups listed in the CAA (for activities engaged in *after* December 26, 2007), but that were not otherwise covered by the automatic relief provisions.
 - (1) This exemption authority covers TRIG activity that is not based on a particular group. For example, providing material support is based on a group (“commit an act that the actor knows . . .affords material support . . . to a terrorist organization”). A combatant, on the other hand, would be inadmissible for having engaged in “terrorist activity” without the need for a group association. This exemption would then apply to that individual.
 - (2) This exemption also applies to individuals with associations and/or activities with the KNU/KNLA and KNPP after December 26, 2007.
- g) The applicant must also warrant an exemption based on the totality of the circumstances.

- h) The exemption also requires an **additional threshold requirement** that there is no reason to believe that the relevant activities or those of the recipient were targeted against noncombatants.
- i) The African National Congress (ANC – South Africa) was not included in the later exercise of the exemption authority.
- e. **The Iraqi Groups:** On September 21, 2009 the Secretary of Homeland Security and the Secretary of State, in consultation with each other and the Attorney General, exercised their authority not to apply exemptible INA § 212(a)(3)(B) terrorist activity-related inadmissibility provisions for activities and associations involving the:
- (1) Iraqi National Congress (INC)
 - (2) Kurdistan Democratic Party (KDP)
 - (3) Progressive Union of Kurdistan (PUK)
- 2) The INC, KDP, and PUK meet the definition of Tier III terrorist organizations due to their activities in opposition to Saddam Hussein and Baath Party rule.
 - 3) In addition to the four threshold requirements listed above at [ADD SECTION], this exemption also requires an **additional threshold requirement** that he or she has not participated in, or knowingly provided material support to, terrorist activities that targeted noncombatant persons.
 - 4) The applicant must also warrant an exemption based on the totality of the circumstances.
- f. **The All Burma Student Democratic Front (ABSDF).** On December 16, 2010, the Secretary of Homeland Security in consultation with the Secretary of State and the Attorney General, exercised her authority not to apply exemptible INA § 212(a)(3)(B) terrorist activity-related inadmissibility provisions to individuals who have activities and associations with the All Burma Student Democratic Front (ABSDF).
- (1) The ABSDF has operated for many years in defiance of Burma’s junta government by armed rebellion. Due to activities carried out by the organization the ABSDF meets the definition of a Tier III organization
 - (2) This exemption is available for all activities with the ABSDF **except** for current engagement or intent to engage in the future in terrorist activity.
 - (3) In addition to the four threshold requirements listed above at [ADD SECTION], this exemption also requires an **additional threshold requirement** that he or she has not participated in, or knowingly provided material support to, terrorist activities that targeted noncombatant persons or U.S. interests.

- (4) The applicant must also warrant an exemption based on the totality of the circumstances.

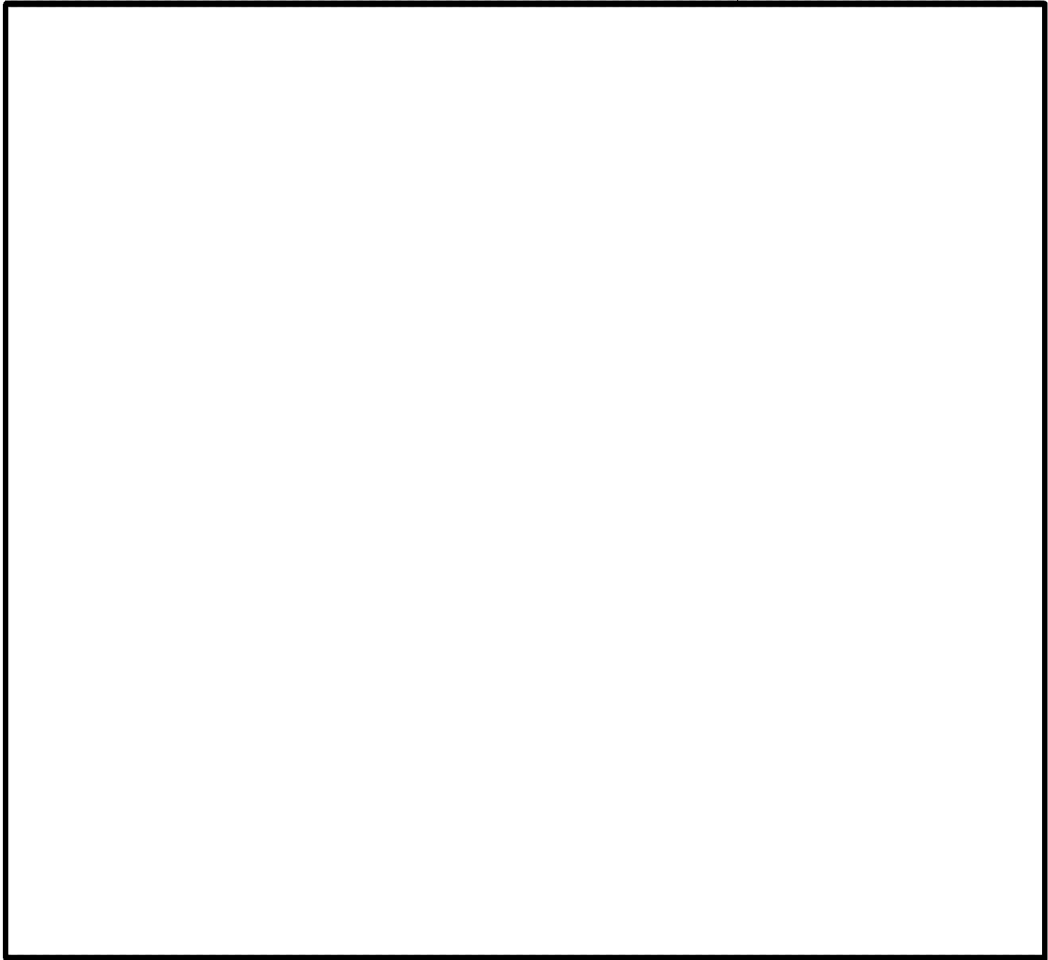
g. **The All India Sikh Student Federation – Bittu Faction (AISSF-Bittu)**. On October 18, 2010, the Secretary of Homeland Security in consultation with the Secretary of State and the Attorney General, exercised her authority not to apply exemptible INA § 212(a)(3)(B) terrorist activity-related inadmissibility provisions to individuals who provided material support voluntarily to the All India Sikh Students Federation-Bittu Faction (AISSF-Bittu Faction).

- 1) 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 organization the AISSF-Bittu Faction meets the definition of a Tier III organization.
- 2) This exemption does not require duress, **but applies only to material support provided voluntarily.**
- 3) In addition to the four threshold requirements listed above at [ADD SECTION], this exemption also requires an **additional threshold requirement** that he or she has not participated in, or knowingly provided material support to, terrorist activities that targeted noncombatant persons or U.S. interests.
- 4) The applicant must also warrant an exemption based on the totality of the circumstances.

2. **“Situational Exemption Authority**

- a. **General:** “Situational” exemptions apply to specified activities with a terrorist organization. Some situational exemptions require that the activity have taken place under duress. This therefore requires an examination into the duress factors to determine eligibility for the exemption.
- b. **Material Support Under Duress:** In 2007, Secretary Chertoff exercised his authority not to apply the material support inadmissibility provision to applicants who provided material support to a terrorist organization **while under duress**. This authority was first exercised with regard to Tier III organizations, then shortly after was extended to Tier I and II organizations as well.
 - 1) “Material support” includes acts such as providing transportation, funds, safe house, food, and other services to a terrorist organization.

(b)(7)(e)



4) Helpful questions to determine the duress include:

(b)(7)(e)



c. **Military-Type Training Under Duress:** On January 7, 2011, Secretary Napolitano exercised her authority not to apply the inadmissibility ground under INA § 212(a)(3)(B)(i)(VIII) for applicants who received military-type training under duress from or on behalf of any organization that, at the time the training was received, was a terrorist organization.

- 1) This exemption applies to Tier I, Tier II and Tier III terrorist organizations and requires duress.
- 2) The definition for military-type training is referenced in 18 U.S.C. section 2339D(c)(1), which 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 section 2232a(c)(2)).

- 3) In order to be considered for this exemption an applicant must meet the threshold requirements, demonstrate the military-type training was received under duress, and warrant a favorable exercise of the exemption based on the totality of the circumstances.
- 4) In addition to the previously discussed threshold requirements, an applicant must establish that he or she not received training that itself poses a risk to the US or US interest (e.g. training on production or use of a weapon of mass destruction, torture, or espionage).
- 5) This exemption does not apply to combat activities. If an alien received military-type training under duress and also engaged in combat, he or she would not be eligible for this exemption, even if the combat took place under duress as well.

d. **Solicitation of funds or members on behalf of a terrorist organization:** On January 7, 2011, Secretary Napolitano exercised her authority not to apply the inadmissibility bars under INA §§ 212(a)(3)(B)(iv)(IV) and (V) for applicants who solicited funds or members under duress on behalf of any organization that, at the time the solicitation was performed, was a terrorist organization.

- 1) This exemption applies to Tier I, Tier II and Tier III terrorist organizations and requires duress.
- 2) In order to be considered for this exemption an applicant must meet the four threshold requirements, demonstrate that the solicitation was performed under duress, and warrant a favorable exercise of the exemption based on the totality of the circumstances.
- 3) Note that asking others for money to help pay a ransom is not solicitation on behalf of a terrorist organization because the individual is seeking the money to be paid to him or herself. Payment of the ransom to the terrorist organization is material support, however.

e. **Voluntary Medical Care:** On October 13, 2011, Secretary Napolitano exercised her authority not to apply the inadmissibility bars under INA § 212(a)(3)(B)(iv)(VI) for providing material support in the form of voluntary medical care to a terrorist organization or one or more of its members.

- 1) This exemption is specifically for the voluntary provision of medical care, which includes:

- a) 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
- b) Related assistance by non-medical professionals providing, for example, emergency first aid services to persons who have engaged in terrorist activity (i.e. Good Samaritans and first aid givers).
- c) Note that if a medical professional provided medical care to a person that the medical professional did not know, and should not reasonably have known, had committed or planned to commit a terrorist activity, the applicant's activity would not be considered material support.
- d) Medical care is not exemptible under the statute when provided (1) voluntarily and (2) on behalf of a Tier I or Tier II organization. So, the staff doctor for Al Qaida would not be eligible for this exemption. This would not apply to an alien who provided medical care on behalf of an undesignated, Tier III terrorist organization and are eligible for an exemption in the totality of the circumstances.
- e) In order to be considered for this exemption an applicant must meet the threshold requirements, and warrant a favorable exercise of the exemption based on the totality of the circumstances.

H. EPO #7: Identify the criteria for placing cases on hold pursuant to the USCIS TRIG Hold Policy, and demonstrate familiarity with the exception(s) to the Hold Policy

Cases with TRIG inadmissibilities for which there is currently no exemption authority, but an applicable exemption may be authorized in the future are placed on hold in the expectation that a future exemption may become available.

There are currently three categories of cases to be placed on hold:

1. Voluntary association/activity with a **Tier III** organization **other than association/activity for which an exemption currently exists** (i.e., exempted groups, voluntary medical care).
2. Any association/activity with **any Tier** terrorist organization that was under duress **other than association/activity for which an exemption currently exists** (i.e., material support, solicitation, and MTT).

3. **Spouses and children** of TRIG inadmissible aliens whether or not the inadmissible aliens have applied for an immigration benefit.

Exception: an applicant in one of the three categories above can be denied without being placed on hold if an exemption would be denied even if it were available. This exception is reserved for the “worst of the worst” cases.

CONCLUSION: The terrorist-related inadmissibility grounds are complex, both as a matter of law and a matter of application. In addition, care must be taken to properly identify those applications for which an exemption is available, and properly adjudicate it if so, or place the case on hold or deny it in other appropriate instances.

The students are directed to their component-specific guidance regarding the details of TRIG processing and the use of the USCIS TRIG ECN site. Novel and/or complex issues should be raised through the appropriate component point of contact to the USCIS TRIG Working Group, which is responsible for examining such issues and issuing guidance, either on a case-by-case basis, or USCIS wide, as necessary.

III. SUMMARY

A. The terrorist-related grounds of inadmissibility

1. Apply to most but not all immigration benefits
2. Are broader than the common understanding of the term terrorism
3. Are both grounds of inadmissibility and deportability

B. The inadmissibility ground under INA § 212(a)(3)(i) includes :

1. Have engaged in terrorist activity (past only)
2. Reasonable grounds to believe is or is likely to engage in terrorist activity (present and future)
3. Incited terrorist activity with intention to cause death or serious injury
4. Representatives of terrorist organizations or groups that endorse or espouse terrorist activity
5. Members of a designated terrorist organization
6. Members of an undesignated terrorist organization (with exception for a reasonable lack of knowledge)
7. Endorses or espouses terrorist activity or persuades others to endorse or espouse terrorist activity
8. Received military-type training from or on behalf of a terrorist organization
9. Is the spouse or child of an alien inadmissible for terrorist activity if the activity occurred within the last 5 years,
 - a. Unless did not and should not have known of activity or has renounced the activity
10. An officer, official representative, or spokesman of the PLO is considered to be engaged in terrorist activity

C. Terrorist activity : Illegal activity involving any of the following

1. Hijacking or sabotage of a conveyance (aircraft, ship, vehicle, etc.)

2. Kidnapping, seizing, or detaining in order to compel a third person or government to do or not do something
 3. Violent attack upon:
 - a. Head of state or foreign minister when outside of country
 - b. Diplomat or other government or international organization employee
 4. Assassination
 5. Use, with intent to endanger people or cause substantial damage to property, of
 - a. Biological, chemical, or nuclear
 - b. Explosive, firearm, or other weapon or dangerous devise (other than for mere personal monetary gain)
 6. Threat, attempt, or conspiracy, to any of terrorist activity
- D. Engage in terrorist activity
1. Committing or inciting terrorist activity
 2. Preparing or planning a terrorist activity
 3. Gathering information on potential terrorist targets
 4. Soliciting funds or other things for a terrorist activity or terrorist organization
 5. Soliciting individuals to engage in a terrorist activity or to join a terrorist organization
 6. Providing material support for a terrorist activity, a person who has or will engage in terrorist activity, or a terrorist organization
 - a. No need for material support to benefit organization's terrorist activities
- E. Terrorist organizations
1. Foreign Terrorist Organizations (Tier I) – designated by Secretary of State
 - a. Taliban has been included by Congress
 2. Terrorist Exclusion List (Tier II) – designated by Secretary of State
 3. Undesignated terrorist organizations (Tier III)

- a. Group of 2 or more that engages in terrorist activity
 - b. No need for organization to threaten U.S.
 - c. No exception for groups who resist oppressive or totalitarian regimes
- F. Association with Terrorist Organizations – INA § 212(a)(3)(F) applies to aliens who have been determined by Secretary of State or Attorney General to be
- 1. associated with terrorist organizations and
 - 2. intend to engage in activities in U.S. that could endanger U.S.
- G. Waivers, Exceptions and Exemptions for terrorism activities:
- 1. Waiver of inadmissibility for nonimmigrants for temporary admissions
 - 2. Lack of knowledge exception for certain activities with undesignated organizations
 - a. Applies to membership, soliciting funds, soliciting people, and providing material support
 - b. Requires both actual lack of knowledge and reasonable lack of knowledge
 - c. Requires showing by clear and convincing evidence
 - 3. Group exemption authorized for undesignated organizations – Secretaries of Homeland Security and State can conclude organization should not be a terrorist organization but not if attacks the U.S., other democracies, or civilians
 - 4. Exemption authorized for most activities under INA § 212(a)(3)(B):
 - a. No authorization to exempt voluntary activities or associations on behalf of a Tier I or Tier II organization, or an applicant who is engaged in, or is likely to engage after entry in terrorist activity.

IV. APPLICATION

A. Laboratory

1. NONE

B. Practical Exercises

1. NONE

V. REFERENCES

A. INA §§ 212(a)(3)(B), (F), § 212(d)(3)(B), § 219, § 237(a)(4)(B)

B. DEFINITIONS

The material support and other terrorist-related grounds of inadmissibility and deportability require a thorough understanding of the following:

TERM	DEFINITION	REFERENCE
<p>Engage in Terrorist Activity</p>	<p>The term “engage in terrorist activity” means, in an individual capacity or as a member of an organization-</p> <p>(I) to commit or to incite to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity;</p> <p>(II) to prepare or plan a terrorist activity;</p> <p>(III) to gather information on potential targets for terrorist activity;</p> <p>(IV) to solicit funds or other things of value for a terrorist activity; a designated terrorist organization, or an undesignated terrorist organization (unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization);</p> <p>(V) to solicit any individual to engage in terrorist activity, for membership in a designated terrorist organization, or an undesignated terrorist organization (unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization);</p> <p>(VI) to commit an act that the actor knows, or reasonably should know, affords material support, (aa) for the commission of a terrorist activity; (bb) to any individual who the actor knows, or reasonably should know, has committed or plans to commit a terrorist activity; (cc) to a designated terrorist organization or to any member of such an organization; or (dd) to an undesignated terrorist organization or to any member of such an organization (unless the actor can demonstrate by clear and convincing evidence that the actor did not know, and should not reasonably have known, that the organization was a terrorist organization).</p>	<p>INA § 212(a)(3)(B)(iv)</p>

TERM	DEFINITION	REFERENCE
Material Support	The term “material support” includes but is not limited providing a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons (including chemical, biological, or radiological weapons), explosives, or training.	INA § 212(a)(3)(B)(iv)(VI)
Military-type Training	The term military-type training means “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.”	18 U.S.C. § 2339D(c)(1)
Representative	The term “representative” for purposes of 212(a)(3)(B) means an officer, official, or spokesman of an organization, and any person who directs, counsels, commands, or induces an organization or its members to engage in terrorist activity.”	INA § 212(a)(3)(B)(v)
Terrorist Activity	The term “terrorist activity” means any activity which is unlawful under the laws of the place where it is committed (or which, if it had been committed in the United States, would be unlawful under the laws of the United States or any State) and which involves any of the following: (I) The high jacking or sabotage 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 (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained. (III) A violent attack upon an internationally protected person or upon the liberty of such a person. (IV) An assassination. (V) The use of any- (a) biological agent, chemical agent, or nuclear weapon or device, or (b) explosive, firearm, or other weapon or dangerous device (other than for mere personal monetary gain) with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property. (VI) A threat, attempt, or conspiracy to do any of the foregoing.	INA § 212(a)(3)(B)(iii)

TERM	DEFINITION	REFERENCE
Terrorist Exclusion List	The term "terrorist exclusion list" means the listing of organizations designated as terrorist organizations by the Secretary of State after finding the organization engages in terrorist activity pursuant to INA § 212(a)(3)(B)(vi)(II).	INA § 212(a)(3)(B)(vi)(II)
Terrorist Organization	The term "terrorist organization" means an organization-- (I) designated under INA section 219; (II) otherwise designated, upon publication in the Federal Register, by the Secretary of State in consultation with or upon the request of the Attorney General or the Secretary of Homeland Security, as a terrorist organization, after finding that the organization engages in terrorist activities; or (III) that is a group of two or more individuals, whether organized or not, which engages in, or has a subgroup which engages in, terrorist activities.	INA § 212(a)(3)(B)(vi)