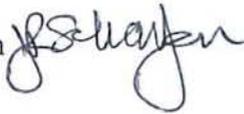




U.S. Citizenship
and Immigration
Services

Interoffice Memorandum

To: Associate Directors
Chief, Office of Administrative Appeals
Chief Counsel

From: Jonathan Scharfen 
Deputy Director

Date: SEP -6 2007

Re: Processing the Discretionary Exemption to the Inadmissibility Ground for Providing Material Support to the Revolutionary Armed Forces of Colombia (FARC)

On April 27, 2007, Department of Homeland Security (DHS) Secretary Chertoff exercised his discretionary authority under Sec. 212(d)(3)(B)(i) of the Immigration and Nationality Act (the Act) not to apply subsection 212(a)(3)(B)(iv)(VI) to certain individuals who have provided material support under duress to certain terrorist organizations described in subsections 212(a)(3)(B)(vi)(I) and (II) (designated terrorist organizations or Tier I and Tier II organizations) if warranted by the totality of the circumstances. When this exemption authority was exercised, DHS determined that that this exemption authority will be exercised only with respect to applicants who provided material support under duress to Tier I or Tier II organizations identified by DHS.

On September 6, 2007, DHS authorized USCIS to consider the April 27, 2007 exemption authority with respect to material support provided under duress to the Revolutionary Armed Forces of Colombia (FARC).

When adjudicating a case involving the provision of material support to the FARC, the discretionary determination authorized by the Secretary will be made after consideration of the factors discussed in the May 24, 2007 memo entitled "Processing the Discretionary Exemption to the Inadmissibility Ground for Providing Material Support to Certain Terrorist Organizations." The determination will be documented on the revised Material Support Exemption Worksheet (rev. September 6, 2007) and routed for two levels of review as required by the May 24, 2007 memo. In addition, each adjudicating program may establish procedures for review by the Material Support Working Group of any cases in which the adjudicator considers whether the duress exemption should be exercised with respect to material support provided to the FARC.

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Because DHS in the future may choose to exercise this discretionary authority for cases involving material support provided under duress to other Tier I or Tier II organizations, USCIS will continue to hold cases in which the applicant is eligible for the benefit sought but for the provision of material support *under duress* to a Tier I or Tier II organization other than the FARC.

Consistent with the discretionary nature of the exemption authorities, this memorandum is not intended to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

Cc: DHS Policy Directorate
DHS Office of the General Counsel
ICE Office of the Principal Legal Advisor

Attachments:

1. Material Support Exemption Worksheet, rev. September 6, 2007
2. Exercise of Authority Under Sec. 212(d)(3)(B)(i) of the Immigration and Nationality Act, April 27, 2007 ("Tier I/Tier II Duress Exemption"), 72 FR 26132, May 8, 2007.