



Homeland
Security

March 16, 2006

The Honorable Christopher H. Smith
Co-Chair, House Refugee Caucus
2373 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative Smith:

Thank you for your letter dated March 3, 2006. I appreciate your interest in the applicability of the "material support" provisions of the Immigration and Nationality Act (INA). The Department of Homeland Security (DHS) steadfastly supports the U.S. government's commitment to refugee protection through the U.S. Refugee Program and the Asylum Program. At the same time, we are equally cognizant of our mission to safeguard the security of the American public.

Under Section 212(a)(3) of the INA, persons who provide material support to individuals or organizations that engage in terrorist activity are inadmissible to the United States. As you know, the INA defines terrorism broadly. The focus of the law is the commission of terrorist activity. The law provides no exception for motivation. Accordingly, the statutory definition sometimes includes groups that are engaged in opposition to repressive regimes. Under the law, individuals providing material support to such organizations are inadmissible.

As you note in your letter, the INA contains a discretionary exemption to the material support inadmissibility provision. DHS is actively engaged, together with its components and in consultation with the Departments of State and Justice, how this discretionary authority may be exercised in a responsible manner. Coordinating across such a range of varying missions and diverse immigration interests presents a significant challenge. DHS remains committed to protecting our national security and fulfilling our humanitarian commitments.

Thank you again for your letter. I hope that this information has helped to clarify DHS' position. We are determined to develop policy with respect to the discretionary exemption to the material support inadmissibility provision that serves the best interests of our nation.

Sincerely,

A handwritten signature in black ink, appearing to read "Elaine K. Dezenski".

Elaine K. Dezenski
Assistant Secretary for Policy Development (Acting)