



FREQUENTLY ASKED QUESTIONS ABOUT MATERIAL SUPPORT

1. *Q: What is “material support”?*

A: After the terrorist attacks on September 11, 2001, Congress enacted the *USA Patriot Act* and the *REAL ID Act*. Both of these pieces of legislation contain language that was intended to help keep this country safe from future terrorist attacks. However, one of the unintended consequences of this language was that the definitions of who a “terrorist” is and what “terrorist activity” is were expanded. Many refugees, including the Hmong and Montagnard, and asylum seekers from around the world fell under these new definitions, both as “terrorists,” and those who supported “terrorists” with “material support,” (e.g. providing food, water, shelter, etc.). As a result, thousands were banned from entering the United States as refugees, or once here, obtaining asylee status. In addition, the material support bars impacted thousands of refugees and asylees who are already legally in this country. Material support bars prevented many of those who tried to adjust their immigration status in order to obtain their “green cards,” their permanent residency, from moving forward in this process.

2. *Q: Is there new material support legislation?*

A: Yes. On December 27, 2007, President Bush signed a large spending bill into law. Material support legislation was included in this bill, so when the President signed the spending bill, he also signed the material support language into law. To see the actual material support language that has passed, link onto the Refugee Council USA website at <http://www.rcusa.org/index.php?page=legislation> (click on *material support legislation* under the December 17, 2007 heading).. The passage of this law would not have happened without the combined efforts of community advocates around the country and in Washington, DC.

3. *Q: What does the legislation state?*

A: This new legislation contains a lot of information related to material support, but the following are provisions that will most impact the Hmong and Montagnard communities:

- ✓ 9 groups (6 from Burma, 1 from Tibet, and 1 from Cuba), including the Hmong and Montagnards, “shall not be considered to be a terrorist organization on the basis of any act or event occurring before the date of enactment of this section.” This means that these groups are no longer subject to material support bars of inadmissibility. For these groups there is now “automatic relief.” These groups are no longer considered to be terrorist groups based on activities that happened before the signing of this law however, individuals associated with these groups *could* still be barred for engaging in terrorist activity themselves (see NOTE below). The new law does, however, provide authority of for a waiver for any of these bars. Any activities that take place after the date of enactment, December 26, 2007, that the United States government feels qualify as “terrorist activity” could still fall under the material support bars of inadmissibility.
- ✓ The Administration now has an expanded authority to issue waivers to individuals who provided “material support” and to those who actually fought, including the Hmong and Montagnards.

NOTE: The Hmong and Montagnards as *groups* are no longer subject to the material support bars, but it is *possible* that *individual* Hmong and Montagnard community members could still be impacted by bars of

inadmissibility if they actually fought alongside the Americans during the Vietnam War. *However*, advocates are not yet sure that this is how the law will in fact be interpreted and implemented. *If* it turns out that the law is interpreted that way, the good news is that the Administration now has the authority to issue waivers to those who fought during the war. Prior to this legislation, these waivers did not exist.

4. *Q: How will this legislation be implemented?*

A: This legislation is still very new, and advocates are still not sure how the law will be interpreted and implemented. Advocates in Washington, DC are currently planning a meeting with different representatives of the Administration in order to find out more information about how the law will be implemented.

- ✓ It is very important to remember that no matter what, the implementation of this law will not happen as quickly as we all would like it to. It could actually take a long time for local community members to start seeing real changes resulting from this law.
- ✓ The process for those whose green card applications were put on hold because of material support is still unknown. We are hopeful that information about this process will be available soon. As soon as it is, SEARAC will share this information.
- ✓ *IF* waivers are still needed for some individuals in the Hmong and Montagnard communities, SEARAC will also share information about them as soon as possible.

5. *Q: Does this legislation mean that there can now be large scale resettlements of Hmong and Montagnard refugees?*

A: No. While the removal of the “terrorist” definition for the above mentioned groups is a tremendous victory, it does not mean that there will be new, large resettlements of Hmong or Montagnard refugees. In the case of the Hmong, the U.S. State Department has stated that there will, in fact, be “*no plans to initiate a resettlement program for Hmong asylum-seekers currently residing in Thailand...*” and that “*...the U.S. will maintain its policy of considering individual cases for resettlement to the U.S. through the U.S. Refugee Admissions Program upon referral by the United Nations High Commissioner for Refugees (UNHCR)*” (Source: State Department press release on material support waivers for the Hmong, dated October 22, 2007). This new material support legislation could help them by eliminating the bars of inadmissibility that may have impacted them, but we should not expect that large groups of Hmong refugees or Montagnard refugees will be resettled in the U.S. soon.

6. *Q: Are there next steps that community members should take?*

A: Yes. Keep checking SEARAC’s website (www.searac.org) and listserv for updated information about the implementation of this law. Continue to monitor the cases of those whose green card applications were put on hold, presumably because of material support. If possible, document those cases so if necessary, that information can be used in future advocacy efforts to make sure that the law is implemented properly and in a timely manner.

For further information about material support and this new legislation, please contact Helly Lee or Naomi Steinberg at SEARAC at 202-667-4690 or helly@searac.org, or naomi@searac.org.