[Billing Code]

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

DEPARTMENT OF STATE

Office of the Secretary

Exercise of Authority under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act

AGENCY: Office of the Secretary, DHS; Office of the Secretary, DOS.

ACTION: Notice of determination.

Authority: 8 U.S.C. 1182(d)(3)(B)(i).

The Secretary of Homeland Security and the Secretary of State, following consultations with the Attorney General, hereby conclude, as a matter of discretion in accordance with our respective authorities under section 212(d)(3)(B)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(d)(3)(B)(i), as amended, as well as the foreign policy and national security interests deemed relevant in these consultations, that section 212(a)(3)(B) of the INA, 8 U.S.C. 1182(a)(3)(B), excluding subclause (i)(II), shall not apply, with respect to an alien, for any activity or association relating to the Iraqi National Congress (INC), provided that the alien satisfies the relevant agency authority that the alien:

(a) is seeking a benefit or protection under the INA and has been determined to be otherwise eligible for the benefit or protection;

(b) has undergone and passed relevant background and security checks;

(c) has fully disclosed, in applications and/or interviews with U.S. government representatives and agents, the nature and circumstances of activities or associations falling within the scope of section 212(a)(3)(B) of the INA, 8 U.S.C. 1182(a)(3)(B);

(d) has not participated in, or knowingly provided material support to, terrorist activities that targeted noncombatant persons;

(e) poses no danger to the safety and security of the United States; and

(f) warrants an exemption from the relevant inadmissibility provision in the totality of the circumstances.

Implementation of this determination will be made by U.S. Citizenship and Immigration Services (USCIS), in consultation with U.S. Immigration and Customs Enforcement (ICE), or by U.S. consular officers, as applicable, who shall ascertain, to their satisfaction, and in their discretion, that the particular applicant meets each of the criteria set forth above.

This exercise of authority may be revoked as a matter of discretion and without notice at any time with respect to any and all persons subject to it. Any determination made under this exercise of authority as set out above can inform but shall not control a decision regarding any subsequent benefit or protection application, unless such exercise of authority has been revoked.

This exercise of authority shall not be construed to prejudice, in any way, the ability of the U.S. government to commence subsequent criminal or civil proceedings in accordance with U.S. law involving any beneficiary of this exercise of authority (or any other person). This exercise of authority 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.

In accordance with section 212(d)(3)(B)(ii) of the INA, 8 U.S.C. 1182(d)(3)(B)(ii), a report on the aliens to whom this exercise of authority is applied, on the basis of case-by-case decisions by the U.S. Department of Homeland Security or by the Department of State, shall be provided to the specified congressional committees not later than 90 days after the end of the fiscal year.

This determination is based on an assessment related to the national security and foreign policy interests of the United States as they apply to the particular persons described herein and shall not have any application with respect to other persons or to other provisions of U.S. law.

Dated:

Janet Napolitano,
Secretary of Homeland Security.

Hillary Rodham Clinton,
Secretary of State.

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DEPARTMENT OF HOMELAND SECURITY

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The Secretary of Homeland Security and the Secretary of State, following consultations with the Attorney General, hereby conclude, as a matter of discretion in accordance with our respective authorities under section 212(d)(3)(B)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(d)(3)(B)(i), as amended, as well as the foreign policy and national security interests deemed relevant in these consultations, that section 212(a)(3)(B) of the INA, 8 U.S.C. 1182(a)(3)(B), excluding subclause (i)(II), shall not apply, with respect to an alien, for any activity or association relating to the Kurdistan Democratic Party (KDP), provided that the alien satisfies the relevant agency authority that the alien:

(a) is seeking a benefit or protection under the INA and has been determined to be otherwise eligible for the benefit or protection;

(b) has undergone and passed relevant background and security checks;

(c) has fully disclosed, in applications and/or interviews with U.S. government representatives and agents, the nature and circumstances of activities or associations falling within the scope of section 212(a)(3)(B) of the INA, 8 U.S.C. 1182(a)(3)(B);

(d) has not participated in, or knowingly provided material support to, terrorist activities that targeted noncombatant persons;

(e) poses no danger to the safety and security of the United States; and

(f) warrants an exemption from the relevant inadmissibility provision in the totality of the circumstances.

Implementation of this determination will be made by U.S. Citizenship and Immigration Services (USCIS), in consultation with U.S. Immigration and Customs Enforcement (ICE), or by U.S. consular officers, as applicable, who shall ascertain, to their satisfaction, and in their discretion, that the particular applicant meets each of the criteria set forth above.

This exercise of authority may be revoked as a matter of discretion and without notice at any time with respect to any and all persons subject to it. Any determination made under this exercise of authority as set out above can inform but shall not control a decision regarding any subsequent benefit or protection application, unless such exercise of authority has been revoked.

This exercise of authority shall not be construed to prejudice, in any way, the ability of the U.S. government to commence subsequent criminal or civil proceedings in accordance with U.S. law involving any beneficiary of this exercise of authority (or any other person). This exercise of authority 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.

In accordance with section 212(d)(3)(B)(ii) of the INA, 8 U.S.C. 1182(d)(3)(B)(ii), a report on the aliens to whom this exercise of authority is applied, on the basis of case-by-case decisions by the U.S. Department of Homeland Security or by the Department of State, shall be provided to the specified congressional committees not later than 90 days after the end of the fiscal year.

This determination is based on an assessment related to the national security and foreign policy interests of the United States as they apply to the particular persons described herein and shall not have any application with respect to other persons or to other provisions of U.S. law.

Dated: 9-21-09

Janet Napolitano,
Secretary of Homeland Security.

Hillary Rodham Clinton,
Secretary of State.

[Billing Code]

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

DEPARTMENT OF STATE

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Exercise of Authority under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act

AGENCY: Office of the Secretary, DHS; Office of the Secretary, DOS.

ACTION: Notice of determination.

Authority: 8 U.S.C. 1182(d)(3)(B)(i).

The Secretary of Homeland Security and the Secretary of State, following consultations with the Attorney General, hereby conclude, as a matter of discretion in accordance with our respective authorities under section 212(d)(3)(B)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(d)(3)(B)(i), as amended, as well as the foreign policy and national security interests deemed relevant in these consultations, that section 212(a)(3)(B) of the INA, 8 U.S.C. 1182(a)(3)(B), excluding subclause (i)(II), shall not apply, with respect to an alien, for any activity or association relating to the Patriotic Union of Kurdistan (PUK), provided that the alien satisfies the relevant agency authority that the alien:

(a) is seeking a benefit or protection under the INA and has been determined to be otherwise eligible for the benefit or protection;

(b) has undergone and passed relevant background and security checks;

(c) has fully disclosed, in applications and/or interviews with U.S. government representatives and agents, the nature and circumstances of activities or associations falling within the scope of section 212(a)(3)(B) of the INA, 8 U.S.C. 1182(a)(3)(B);

(d) has not participated in, or knowingly provided material support to, terrorist activities that targeted noncombatant persons;

(e) poses no danger to the safety and security of the United States; and

(f) warrants an exemption from the relevant inadmissibility provision in the totality of the circumstances.

Implementation of this determination will be made by U.S. Citizenship and Immigration Services (USCIS), in consultation with U.S. Immigration and Customs Enforcement (ICE), or by U.S. consular officers, as applicable, who shall ascertain, to their satisfaction, and in their discretion, that the particular applicant meets each of the criteria set forth above.

This exercise of authority may be revoked as a matter of discretion and without notice at any time with respect to any and all persons subject to it. Any determination made under this exercise of authority as set out above can inform but shall not control a decision regarding any subsequent benefit or protection application, unless such exercise of authority has been revoked.

This exercise of authority shall not be construed to prejudice, in any way, the ability of the U.S. government to commence subsequent criminal or civil proceedings in accordance with U.S. law involving any beneficiary of this exercise of authority (or any other person). This exercise of authority 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.

In accordance with section 212(d)(3)(B)(ii) of the INA, 8 U.S.C. 1182(d)(3)(B)(ii), a report on the aliens to whom this exercise of authority is applied, on the basis of case-by-case decisions by the U.S. Department of Homeland Security or by the Department of State, shall be provided to the specified congressional committees not later than 90 days after the end of the fiscal year.

This determination is based on an assessment related to the national security and foreign policy interests of the United States as they apply to the particular persons described herein and shall not have any application with respect to other persons or to other provisions of U.S. law.

Dated: 9-21-09

Janet Napolitano,
Secretary of Homeland Security.

Hillary Rodham Clinton,
Secretary of State.