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and the Broadcasting Board of Governors
Office of Inspector General

Report of Inspection

Nonimmigrant Visa Adjudication: Standards for Refusing Applicants

Report Number ISP-CA-05-58, March 2005

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EXECUTIVE SUMMARY

The Office of Inspector General (OIG) reviewed the nonimmigrant visa (NIV) adjudication process to determine how Section 214(b) of the Immigration and Nationality Act (INA) is used to determine issuance or refusal. Further, OIG examined the merits of several elements of the visa adjudication process to determine whether they effectively protect the security of the United States.

OIG found that much about visa processing has changed since the events of September 11, 2001, focused attention on the process for issuing visas and admitting aliens to the United States. Perhaps most striking is the increased use of the personal interview in determining eligibility. Adjudicating officers believe that the interview is an important tool in determining the bona fides of visa applicants. Section 214(b) provides a basis for the refusal of NIV applicants who do not meet the requirements of most of the NIV classifications under section 101 (a) (15) of the INA. Failure to satisfy these provisions is clearly sufficient to exclude prospective illegal immigrants and aliens wishing to harm the United States. Officers, however, need to better understand how Section 214(b) may be applied. While that information is available, better reference tools and improved training should be provided to refine the officers' knowledge. Section 214(b), by statute, does not apply to all visa categories. OIG believes new legislation restoring H, L, and V visa categories to this section's purview should be considered. (See Appendix II for explanation of all visa categories.)

Adjudicating officers believe that any attempt to further codify visa requirements, or to require by regulation submission of specific documentary evidence as proof of eligibility as part of the application process, would limit the ability of the adjudicating officer to use the interview as the central determinant in adjudicating visa cases. The greatest benefit to effective adjudication would be more information from other U.S. government sources. Intelligence on potential terrorists and entry/exit data are the two types of information most desired by officers in the field. Real time data sharing has been achieved in some data categories but would, if expanded to include exit data and information on adjustments, significantly improve the visa adjudication process.

PURPOSE

Congressman F. James Sensenbrenner, Jr., Chairman of the Committee on the Judiciary, and Senator Jon Kyl, member of the Senate Judiciary Committee, requested OIG on September 21, 2004, to review the process by which adjudications are made and reviewed under section 214(b) of the INA. They also requested that OIG review the merits of several proposals that might strengthen the Department of State's (Department's) ability to combat mala fide applicants, particularly those intending to do harm while in the United States.

Several distinct issues were raised in the letter: inter alia, whether consular officers were utilizing Section 214 (b) of the INA to refuse nonimmigrant visa applicants whom the officers suspected of intent to commit harm; whether there should be minimum evidentiary standards required to support visa applications; whether empirical data bases are available and useful in the visa process; what posts' policies were with respect to "visa shopping" and whether those policies were strict enough to discourage the phenomenon; whether there is merit in greater reliance on surety bonds; whether those categories of NIVs that are legally exempt from the provisions of Section 214(b) (particularly H1b and L) should be made subject to that section of the INA; and whether the Bureau of Consular Affairs (CA) has expanded the exemption to include Treaty Trader/Investor and Religious Worker (E and R) visas.

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METHODOLOGY

OIG conducted this review between November 2004 and February 2005. Three questionnaires were sent to all 211 visa adjudicating posts. Major contributors to this report were Charles Anderson (Consular Evaluations Unit Chief); Senior Inspector Larry Colbert, project manager; senior inspectors Bernard Alter, Norbert Krieg, and Maria Philip; and inspector Robert Mustain.

The first questionnaire (Consular Section Chiefs Questionnaire) was addressed to all consular section chiefs (118 responses). The second (NIV Interviewing Officer Questionnaire) was addressed to all consular officers doing NIV interviews (351 responses), while a third document (Quantitative Questionnaire) was completed by both consular section management and interviewing officers (310 responses). A total of 139 posts sent responses to one or more of the questionnaires. An additional questionnaire was submitted to CA. OIG conducted on-site interviews with consular officers at eight posts. The posts selected were those visited by regular OIG inspection teams during the period of this review. In addition, special trips were made to Jakarta and Manila to interview officers at these posts. OIG fieldwork included personal interviews in Washington as follows:

Department of State Bureaus:

Bureau of Consular Affairs

Executive Office

Directorate of Visa Services, Fraud Prevention Programs

Bureau of Human Resources

Foreign Service Institute

Other Government Agencies:

Department of Homeland Security

Government Accounting Office

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BACKGROUND

LEGAL CITATIONS

Consular officers generally consider one of two sections of the INA when denying visa applications, either 212(a) or 101(a)(15). Section 212(a) describes various grounds of inadmissibility into the United States. For the most part, 212(a) ineligibilities can apply to both nonimmigrant and immigrant visa applicants and, because many of those grounds also appear in section 237 of the INA, they are also used as grounds for removal from the United States. On the other hand, section 101(a)(15) relates only to entitlements to various NIV classifications. Section 214(b) is statutorily linked to the entitlements described in section 101(a)(15) and serves as the basis for most NIV denials. Thus, while an applicant deemed inadmissible[1] into the United States would probably also be ineligible[2] for a visa, an applicant denied a nonimmigrant visa under 214(b) would not be similarly inadmissible and may even be eligible for an immigrant visa. As 214(b) is directly linked to almost all NIV categories, the vast majority of consular NIV adjudications involve the consideration of 214(b).

CHANGES IN VISA PROCESSING AFTER SEPTEMBER 11, 2001

Since the terrorist attacks of September 11, 2001, CA has implemented a wide variety of changes that have tightened the NIV adjudication process, by:

1. Eliminating waivers of personal appearance for most NIV applicants, initiated first by Department instruction and then codified by recent legislation.

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[1]Relates to denial of entry into the United States by DHS at Port of Entry.
[2]Relates to denial of visas by consular officers abroad.

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2. Increasing CA oversight through the issuance of Standard Operating Procedures (SOP); 81 SOP cables have been sent to consular sections at this time.

3. The dispatch of Consular Management Assistance Teams to review consular operations at posts and ensure that the SOPs are being followed (some 65 to date).

4. Updating and rewriting the visa Foreign Affairs Manual (9 FAM) to provide clearer guidance and assistance in adjudication.

5. Improving executive office oversight by requiring deputy chief of mission review of chief of consular section visa adjudications.

6. Strengthening the visa referral system (see OIG report no. ISP-CA-05-56).

7. Lengthening and enriching training of new consular officers particularly by the addition of modules on advanced interviewing skills and counterterrorism awareness.

8. Upgrading consular positions to eliminate situations where consular sections are headed by first tour officers

9. Providing additional human (350 consular Foreign Service positions since 2002) and physical (approximately 12 million dollars spent on infrastructure upgrades in FY 03 and 04) resources to improve the work environment and allow for better management controls.

This report, in addressing the issues mentioned above, will review certain of the changes in NIV processing made subsequent to earlier OIG and Government Accountability Office (GAO) reports. In particular, aspects of these issues have been examined previously in the GAO's report entitled "Border Security -Visa Process Should be Strengthened as an Antiterrorism Tool" (GAO-03-132NI of October 2002) and the Department's OIG report "Review of the Nonimmigrant Visa Issuance - Policy and Procedures" Memorandum Report ISP-103-26.

FINDINGS AND RECOMMENDATIONS

STATUTORY LANGUAGE AND PRINCIPLES

The INA provides the legal underpinning for all visa adjudications. It is therefore important to review exactly what is written in the various INA sections relating directly to NIV adjudications. These include sections 101(a)(15), 214(b), 214(h), 291, 212(a), and 221(g).

Section 101(a)(15) legally defines an immigrant to mean "every alien except an alien who is within one of the following classes of nonimmigrant aliens." It then goes on to detail the standards for entitlement to 32 different categories of NIVs. Among the various standards set forth statutorily for some categories of visas, though certainly not all, in this section is one demanding the alien have "a residence in a foreign country which he has no intention of abandoning." The various criteria that appear in 101(a)(15) are also further defined by associated regulations and FAM guidance. Nine categories of visas (B, E, F, J, M, 0-2, P, Q, TN) possess a foreign residence requirement either by statute or regulation while most others (A, C, D, G, I, K, N, O-1, R, S, T, V) do not have such regulatory or statutory provisions. Applicants can, however, be denied visas on other statutory grounds.

Section 214(b), as a basis of refusal, incorporates by reference the 101(a)(15) standards by saying, "every alien (other than a nonimmigrant described in subparagraph (l) or (v) of section 101(a)(15), and other than a nonimmigrant described in any provision of section 101(a)(15)(H)(i) except sub clause (b)(1) of such section shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer, at the time of the application for a visa, and the immigration officers, at the time of application for admission, that he is entitled to a nonimmigrant status under section 101(a)(15)." That is, applicants for any one of the NIV categories, save the exceptions listed, who cannot demonstrate that they meet the standards outlined in 101(a)(15) are not considered entitled to the nonimmigrant statuses described. The only NIV classifications exempted from the purview of 214(b) are (H)(i), L, and V.

Section 214(h) reinforces the exemption of H1, L and V visa applicants from considerations of immigrant intent by stating that, "The fact that an alien is the beneficiary of an application for a preference status filed under section 204[3] or has otherwise sought permanent residence in the United States shall not constitute evidence of an intention to abandon a foreign residence for purposes of obtaining a visa as a nonimmigrant described in subparagraph (H)(i)(b) or (c), (L), or V of section 101(a)(15) or otherwise obtaining or maintaining the status of a nonimmigrant described in such subparagraph...."

Finally, section 291 places the burden of proof for demonstrating entitlement to a visa category squarely on the shoulders of the applicant by stating, "Whenever any person makes application for a visa or any other document required for entry, or makes application for admission, or otherwise attempts to enter the United States, the burden of proof shall be upon such person to establish that he is eligible to receive such a visa or such document, or is not inadmissible under any provision of this Act, and, if an alien, that he is entitled to the nonimmigrant, immigrant, special immigrant, immediate relative or refugee status claimed..."

As originally drafted, the INA made all NIV categories subject to 214(b). CA believes that amending 214(b) to remove H, L, and V visas completely from its scope created an anomaly in the law that has prevented the uniform application of that section of the INA. This anomaly has caused persistent and significant confusion among consular officers regarding the proper criteria to use when denying H, L, or V visas. It has also resulted in a consistent need to re-educate officers in the proper legal basis for refusing such applicants. Based on discussions with CA, OIG agrees that the H, L and V visa classifications should be made subject to 214(b), but the determination of immigrant intent should continue to remain absent from the 101(a)(15) standards for H, L, and V visas.

Recommendation 1: The Bureau of Consular Affairs, in coordination with the Bureau of Legislative Affairs and the Office of the Legal Adviser should draft and submit to Congress a technical amendment to section 214(b) of the Immigration and Nationality Act restoring the H, L, and V visa categories to that section's purview but without an immigrant intent requirement. (Action CA, in coordination with H and L/CA)

[3]Details various immigrant visa categories.

Responses from several posts expressed extreme frustration with the adjudication of R (religious worker) visas, stating that the R visa category had in their view an extraordinarily high level of fraud and consequently increased the risk to the border security of the United States. They noted the difficulties of judging the bona fides of a particular religious institution or the qualifications of a religious worker. Consular officers felt strongly that, like other employment-based visa categories, the R should be petition-based. This would allow the Department of Homeland Security (DHS) in the United States to thoroughly review the qualifications of the applicant and the religious organization prior to the visa application. One section chief at a large consular section wrote, "Our greatest vulnerability for someone who has malice in mind is the "R" nonimmigrant visa: there is only minimal criteria to meet for the visa - two years in a religion organization and belonging to a religious organization that is tax-exempt...."

Some officers believe, as indicated from the field survey, that E and R visa applicants cannot be denied a visa under 214(b) due to the lack of the immigrant intent provision in the statutory 101(a)(15) NIV standards for E and R categories. To some extent they believe this circumscribes the consular officers' ability to find applicants for such visas ineligible under 214(b). However, 9 FAM, Notes 41.51 and 41.58 do indicate that 214(b) can be applied to both visas, with temporariness of stay as well as investment or trade requirements being criteria for issuance for category E visa applicants and concerns regarding visa entitlement an issue for R applicants. Converting the R visa to a petition-based category would, OIG believes, make it less susceptible to abuse or use by persons intending to harm the United States because a petition-based process would allow concerned U.S. agencies to conduct domestic investigations prior to petition approval and the visa adjudication.

Foreign Affairs Manual and Department Guidance

Although CA has developed substantial guidance on applying 214(b) to particular NIV categories and applications, the instructions are far too widely scattered among the FAM chapters on visa processing and within Department-originated guidance to make them easy to find. In reviewing the instructions on the subject in the Foreign Affairs Manual, for example, OIG had to refer to at least four different sections within Chapter 41 of the regulations to obtain the necessary information. OIG was gratified to see that CA, as part of its ongoing program to revise consular guidelines in the manual, had, in a January release, vastly improved the language in the FAM regarding immigrant intent and had also recently released a cable (04 State

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274068) giving an excellent overview of the application of 214(b). The recent cable should be incorporated into the FAM to provide consular officers more in depth understanding of this section. Furthermore, the discussion in the cable should be expanded in the FAM and more directly address the application of 214(b) to cases in which illicit, criminal, or terrorist activities are suspected.

On using 214(b) in cases where terrorism may be an issue, CA requires posts to send in a request for a security advisory opinion (SAO) because it gives concerned officials in Washington a chance to match the applicant information against data already available and thereby helps support a finding of ineligibility under section 212(a)(3), which authorizes denial of visas on the grounds of national security, or offers an opportunity to open a file on new individual for a possible 212(a)(3) finding in the future. CA added that should the adjudicating officer feel very strongly that the applicant is not credible, but after a review of the SAO the available facts are insufficient to make a determination under 212(a), it would still be possible to deny the applicant a visa under 214(b) based on the lack of credibility.

Recommendation 2: The Bureau of Consular Affairs should consolidate its guidance on applying 214(b) as a basis for refusal into one chapter in the Foreign Affairs Manual with appropriate cross-references to other sections. (Action CA)

Recommendation 3: The Bureau of Consular Affairs should issue more expansive guidance in the Foreign Affairs Manual on denying a visa under 214(b) when an applicant does not meet the individual 101 (a) (15) requirements of one of the nonimmigrant visa categories. (Action CA)

TRAINING AT THE FOREIGN SERVICE INSTITUTE AND IN THE FIELD

To implement 214(b), consular officers must be very familiar with the letter and intent of the INA, the Foreign Affairs Manual, and Department guidance. Officers must also learn how to balance the complex regulatory and statutory variables found there.

SECURITY TRAINING

The Enhanced Border Security and Visa Reform Act of 2002[4] requires that, "all consular officers responsible for adjudicating visa applications, before undertaking to perform consular responsibilities, receive specialized training in the effective screening of visa applicants who pose a potential threat to the safety or security of the United States. Such officers shall be specially and extensively trained in the identification of aliens inadmissible under section 212(a)(3) (A) and (B) of the INA, interagency and international intelligence sharing regarding terrorists and terrorism, and cultural sensitivity toward visa applicants."

Even before the act was passed by Congress, the Foreign Service Institute (FSI) had initiated a course, Advanced Name Checking Techniques, in March 2002 to give consular officers more detailed training in identifying Consular Lookout and Support System name hits and understanding the linguistic algorithms behind the hits. To ensure that as many officers as possible quickly took the training, CA set aside funds to pay travel and per diem expenses for consular officers to attend the course. To date, well over 400 officers have been trained. In addition, CA plans to include one day of advanced name check training in all of its annual regional consular leadership and development conferences.

The Basic Consular Course, known more commonly as Congen Rosslyn, has also been extended from 26 to 31 days to ensure added emphasis on visa security. Among the new training modules is a two-day analytical interviewing mini-course that provides additional skills to help officers identify when applicants may be making a false or misleading statement. As part of the increased emphasis on national security, the new curriculum now also includes half-day programs on counterterrorism at the Central Intelligence Agency and FSI. OIG found that the new, additional coursework materially improved training and addressed requirements spelled out in the Enhanced Border Security and Visa Reform Act.

The increased emphasis on training is reflected in the results of the survey sent to visa interviewing officers. Ninety percent of the officers expressed satisfaction with FSI training. Moreover, 95 percent reported they had received training at FSI or at post in interviewing techniques, 65 percent (241 of 368 responses) in detection of criminals or terrorists, 91 percent in identity fraud, and 91 percent in post-specific fraud indicators. Of the 35 percent, or 127 officers, who indicated they

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[4] Pub. L. No. 107-173 (2002).

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had not received training in detection of criminals or terrorists, 15 were mid-level, two were senior level officers, and 112 were entry level. This was puzzling because the vast majority of entry-level officers, including some who had taken the basic consular course at the same time as those who had replied in the negative and indeed in some cases were serving at the same post, reported having had the training at FSI. OIG believes that the explanation for this anomaly may be the long gap between consular training and actual consular work experienced by some entry-level officers. Consular training is often scheduled immediately after the basic junior officer training and before six months of language training. For officers going to post in rotational positions there may be another full year in another section before the consular half of the rotation. This problem, particularly the scheduling of language training, is not easily resolved because language skills are also highly perishable if not put immediately to use.

Recommendation 4: The Bureau of Human Resources, in coordination with the Foreign Service Institute, should require officers going to their first consular assignment to receive refresher training in visa adjudication prior to beginning work in the consular section if they have had extended training or an intervening assignment in another specialty since receiving basic consular training. (Action: DGHR, in coordination with FSI)

OIG further learned that 85 percent of interviewing officers felt they received "pertinent guidance" from consular management at post for meeting the requirements of individual nonimmigrant categories and determining immigrant intent. At the same time, 96 percent reported that interviewing officers at their respective posts regularly shared views and information with their fellow officers on characteristics of excludable applicants.

In cabled instructions at FSI, and soon in the revised Consular Management Handbook, CA has also encouraged posts to exchange information regularly with relevant agencies in the mission and to include them in orientation briefings for newly arrived officers. Many posts overseas have followed this directive, as stated by several section chiefs in the OIG survey, by arranging with other mission elements to provide current, region-specific training on law enforcement, counterterrorism, and how to spot possible terrorist or criminal connections. This vital *in situ* training represents a significant change from practices followed before the events of September 11, 2001.

214(b) Training

OIG audited the Basic Consular Course and observed the instructor telling the class that Section 214(b) should be used to refuse an applicant who a consular officer suspects may be a terrorist but for whom there is no concrete evidence to support a 212(a)(3)(B) finding. The instructor repeated this advice later in the same day. Also, according to the survey results, 75 percent of the responding consular section chiefs (83 of 110) confirmed they use this approach, instructing interviewing officers to use 214(b) in the same fashion even when an applicant can demonstrate entitlement to an NIV classification.

Subsequent to the two OIG surveys for this report, posts also received 04 State 274068, which discusses the application of 214(b) and the possibilities for its use as an antiterrorism tool. This instruction emphasized the importance of officers sharing their concerns and any information developed with other elements of the mission. It also requires officers to inform the Department, through an SAO, of the applicant's situation for possible onward transmission to the National Counterterrorism Center. CA should include the full text of this cable in its FAM guidance and make it an essential part of FSI's 214(b) training module.

Recommendation 5: The Foreign Service Institute's Consular Training Unit, in coordination with the Bureau of Consular Affairs, should develop materials to make 04 State 274068 a key part of its module on applying 214(b) as a basis for refusal. (Action FSI, in coordination with CA)

Foreign Affairs Manual Guidance and the Potential Impact of Codification

OIG reviewed the guidance contained in "9 FAM, section 41.31 (especially note 2)" to determine if it was appropriate and "whether such guidance should be placed in regulation." 9 FAM 41.31 lists a series of indicia or factors the consular officer should use in his/her assessment of an applicant's entitlement to the visa category (in this case for temporary visitor or B visas), in accordance with the statutory, regulatory, or treaty language.

Slightly more than 75 percent of the 110 consular section chiefs who responded to our survey opposed codification of the FAM. One section chief responded that the current language in the FAM is "flexible enough to be interpreted in each country according to local conditions, and additional legislative requirements would take away that flexibility." Another wrote that legislative criteria would "lead to more second guessing on decisions and make consular officers less willing to trust their judgment."

CA in its formal and informal guidance, as well as in ConGen Rosslyn, strongly recommends the officers look at the totality of the applicant's situation. To do so effectively, it is important for the officer to have broad discretion to determine when an applicant meets the necessary requirements for a particular visa category. Codifying the guidance into law or federal regulation, independent of the local context, would severely limit that discretion. OIG concludes that any attempt to codify such FAM guidance would narrow an officer's freedom to adjudicate the eligibility of an applicant for an NIV in unforeseen and unintended ways, thereby weakening rather than strengthening U.S. border security. When local circumstances and individual factors are not considered, the resulting decisions will necessarily lead to absurd results in some cases, like denying visas to grandparents of limited means who merely wish to see newborn grandchildren.

MINIMUM STANDARDS FOR NONIMMIGRANT VISAS

OIG was specifically charged to review the merits of establishing minimum standards for the application of 214(b) as a basis for refusal. In particular, OIG considered the viability of establishing minimum evidentiary or documentary requirements for applicants seeking NIVs.

CA informed OIG that posts can and do require visa applicants to present specified documents deemed useful in a particular country. CA and consular officers overseas cautioned, however, that establishing "bright line" evidentiary requirements and minimum income or vocational standards would actually limit the flow of information to the adjudicating officer and prevent the officer from looking at the case as a whole.

Experience has demonstrated that individuals who do not meet a particular finite standard might, nonetheless, be qualified, legitimate travelers. This judgment was reflected in comments from the field. One line officer observed, "not all wealthy people intend to return and not all low-income applicants intend to immigrate. You have to get a feel for how tied to their job, community, etc. they are."

A section chief in a third world country replied, "We operate in a high fraud... {environment}, if we began requiring a document, they would simply purchase it on the local market.... We rely on our interviews." A third officer, in a comment that was echoed by many other officers, wrote, "in my country of assignment any document can be purchased if the price is right and should there be a list, within weeks every applicant will be able to provide evidence to meet the criteria." Finally, the section chief from a post in the Middle East summed it up by stating, "setting up such standards is an open invitation to fraud."

On the key survey question of whether posts should develop specific objective evidence to overcome a presumption of immigrant intent, 91 of 114 consular section chiefs (80 percent) said "no," while among interviewing officers, 242 of 276 (88 percent) opposed imposing such minimum standards. In countries without a thriving cottage industry in fraudulent documents, officers did find some documentation useful to the adjudication process, but even there, officers were reluctant to rely solely on documents for determining visa eligibility.

OIG believes that creating minimum evidentiary standards would serve to narrow the focus of an officer's review of a case, promote worldwide markets in fraudulent documents, and make it easier for potentially ineligible applicants to circumvent the law. Based on discussions with CA and a review of the comments from officers in the field, OIG concluded that current practice and regulations provide the best basis for visa adjudication.

EMPIRICAL DATA

OIG was asked to determine whether relevant statistics on visa applicants are being collected and whether post specific empirical studies are being used in NIV denials under 214 (b) or other grounds. CA informed OIG that it provides guidance and training to help officers assess visa eligibility within the context of the countries in which they work. According to CA, its SOPs outline a variety of training programs for recently arrived officers that include orientation to local conditions and guidance on conducting validation studies, i.e., statistical studies tracking the return of locally issued NIV holders. In addition, CA's Vulnerability Assessment Unit and Fraud Prevention Programs Office analyze trends in refusal rates and other anomalies that indicate possible patterns of fraud, passing on the results to adjudicators around the world. Department monitoring of these trends has increased significantly since the events of September 11, 2001.

CA's efforts to expand the amount and quality of empirical data are ongoing. USVISIT information describing the entry history of each traveler is currently available to consular officers through the consolidated consular database (CCD). DHS has also begun pilot tests of biometric exit data collection at several ports of entry and plans to expand the program throughout 2005. If and when this data becomes available in the field it will provide crucial information never previously available to consular officers and allow automated validation studies by all consular sections as well as additional data mining by the Vulnerability Assessment Unit. Necessary Student Exchange Visitor and Information System data necessary to verify student (F-1) and exchange (J-1) visitors is now available to adjudicators overseas. To make the data even more useful to NIV adjudicators, NIV records will be linked via CCD to corresponding records in all immigrant visa and diversity visa files.

OIG's survey found that empirical data is being used to help adjudicate visa eligibility--with 287 of 299 consular officers (96 percent) stating they found such data, which included locally gathered socioeconomic information and post validation studies, very useful. Section chiefs also cited reports from CA/FPP and DHS that provide alerts on "the newest scams." Several noted that the NIV software and CCD are excellent tools for gathering statistics. A large number of section chiefs mentioned the usefulness of DHS forms I-275 and I-325, which report, respectively, the denial of entry at the port of entry and individual requests for adjustment of status, though many lamented receiving such reports months after the application was submitted. In OIG's view, empirical data can give the adjudicating officer the context in which to make a decision but should not be used to create an inflexible quantitative standard that governs the adjudication.

To the question, "What additional data would be useful to have," a large majority asked for better access to DHS information via CCD. They also expressed a desire to receive data on overstays as well as accurate departure information. Currently departure information is dependent on airline personnel collecting form I-94s, the forms used to record entry and departure data, and DHS clerical workers manually inputting the data which is not currently available on CCD.

While DHS and the Department have made great progress in developing and sharing empirical information, more needs to be done. Both agencies would benefit from the expeditious electronic transfer of all exit data developed through the expanded USVISIT program. In addition, border security would be well served by development of a methodology for electronically sharing the data on adjustment of status applications and port of entry "turn arounds" so the information can be shared in real time rather than months later. Despite the current technological

limitations on data sharing, a significant percentage of section chiefs are utilizing empirical data to improve the quality of visa decision-making. Improvements in data transfer rank high among line consular officers when asked what could be done to ensure accurate adjudications and prevent visa issuance to those bent on harming the United States.

WEIGHING APPLICANTS' POSSIBLE CHANGE OF INTENT TO DEPART

OIG was asked to review Section 214(b) to determine if its application, when there is an immigrant intent requirement, should remain limited to an examination of intent at the time an applicant applies for the visa or be expanded to consider "probable or possible change of intention after arrival in the United States"- in essence deciding the applicant's future intent. According to CA, the current language of the statute in the few nonimmigrant classifications to which it applies casts the intent not to abandon a residence abroad, which is part of the 101(a)(15) statutory definition of what constitutes a nonimmigrant for some visa categories, in the present tense. CA noted further that consular officers are always encouraged to consider all the circumstances of a case and are advised to measure future plans uncovered during the application process against the applicant's immediate intent to comply with the statutory visa requirements. CA did not object to the use of empirical data in this regard but cautioned that such data needs to be viewed in light of the specific circumstances of each case. In the case of student visas, the FAM notes already address the issue as officers are instructed to consider the immediate intent of the student applicant.

The law clearly intended inspection at the port of entry to provide a second opportunity for evaluation of intent, particularly for subsequent applications made after the original entrance based on the issuance of the visa. Consular officers explain to successful visa applicants that the visa is only permission to apply for admission and does not guarantee the admission will be granted.

Post responses to the survey question, "Should the law require the visa adjudicator to examine possible change of intent by the applicant after arriving in the United States? Do you think it is possible to make an assessment beyond immediate intent," indicated that although a small number of consular section chiefs favored the concept, the vast majority (79 percent) responded in the negative. One wrote that assessing future intent would work "only if provided crystal balls," while another warned, "we are not fortune-tellers." Several section chiefs pointed

out the incongruity of statutorily mandating adjudicators to consider possible future intent while the INA provides for adjustments of status.

OIG believes the statutes recognize that an adjudicator can realistically only assess the applicant's intent at the time the application is made. The statute anticipates the difficulty in determining future behavior by providing for legal change of status for nonimmigrants and the possibility of adjusting status from nonimmigrant to immigrant.

COUNTERING VISA SHOPPERS

9 FAM 41.101 N2.2, encourages consular officers to accept applications from any applicant physically present in the consular district. CA sent additional guidance to the field on this issue in December 2004 (04 State 275886). According to CA, applicants applying out of their country of residence should expect to have a much harder time satisfying officers that they meet the requirements of an NIV classification that has an immigrant intent requirement. CA also encourages posts to place language on their web sites advising applicants that it may be more difficult to establish visa eligibility if they apply outside of their country of residence.

The term "visa shopper" is normally used to describe applicants who are deliberately applying outside their place of residence because of a perception that it would be easier to obtain a visa elsewhere. Some applicants also engage in this practice in order to cover up previous refusals. "Visa shopping" should be distinguished from the legitimate application made by a traveler in a country where he or she is not normally resident. Business travelers, or those temporarily resident in the United States who are applying for renewals of their visas while on temporary trips abroad, may frequently find it more convenient to apply at a post other than the one that originally issued their visas. CA emphasized to OIG that the proper application of Section 214(b) usually discourages the practice of "visa shopping," adding, however, the bureau recognizes this practice is an important fraud trend that it must monitor and prevent. In this regard, consular lookout and support system (CLASS), with its access to previous refusal information, is an important and powerful instrument regularly used by adjudicators worldwide to identify possible "visa shoppers."

Judging from comments in the OIG survey, consular section management abroad is very alert to "visa shopping." Some section chiefs responded they do not or "rarely" accept applications from out-of-district applicants, telling them instead

to apply in their home countries. The section chief of one large section wrote "absent a compelling humanitarian and verifiable reason" out-of-district applicants...{are}...refused and told to reapply at home." Other section chiefs issue to those out-of-district applicants "who are well-prepared and present more convincing evidence than locals," while denying others including those who appear to be "shopping." In the survey, section chiefs cited regular guidance from CA to help identify "visa shoppers," the real-time updating of refusals in CLASS and the refusal notes in the CCD as very useful tools in combating "visa shopping." OIG finds that while individual consular section policies towards out-of-district applicants may vary, all sections are very much engaged in fighting the phenomenon.

MONETARY BONDS OF QUESTIONABLE UTILITY IN COMBATING MALA FIDE VISA APPLICANTS

OIG was asked to determine if "monetary bonds should be required in certain instances." 9 FAM 41.11 Note 8 discusses maintenance of status and departure bonds for temporary visitor visa and student visa applicants. Section 221(g) of the INA allows for such a bond to ensure that the applicant will maintain visitor or student status in the United States and depart as required.

CA informed OIG that bonds are infrequently used. Bonds are rarely if ever proposed by consular officers, who are advised in the Foreign Affairs Manual to refuse the visa if they have doubts about an applicant's compliance with visa requirements. Instead, bonds are often suggested by third parties, e.g., a relative, a government official responding to outside pressures, or a congressional office seeking to assist a constituent when an applicant has been unable to obtain an NIV. CA noted that a bond only protects against violations of visa status. Aliens who enter the United States as nonimmigrants and successfully apply for a change of status, either to another nonimmigrant category or to obtain permanent residence status, do not forfeit their bonds. In the same manner, aliens who depart the United States within the period of time granted to them at the point of entry are also entitled to a refund of the bond from DHS.

By a large margin, the opinion from the field mirrored that of CA with 87 percent of consular section chiefs responding that a bond does not add to the security of U.S. borders, even while it does add a significant additional workload to already hard-pressed consular sections overseas. Consular officers reported that applicants consider the forfeiture of a bond a small price to pay, if, whether due to

a consular officer's concern about possible illegal immigration or a suspicion of intent to do harm, they would otherwise face denial of an NIV. It would undoubtedly be seen as "another cost of doing business." Accordingly, bonds do not serve as a deterrent to a mala fide nonimmigrant. OIG does not recommend either mandating or suggesting the increased use of monetary bonds as part of the visa adjudication process.

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CONCLUSION

Ensuring the interviewing officers' clear understanding of and compliance with the law, while also giving them the necessary tools to conduct an effective visa interview, are the main consular challenges facing the Department. To meet those twin goals, officers need ready access to information and intelligence from other agencies, more empirical data related to overstay rates, the ability to review a wide variety of documentary evidence, and clear guidance from CA. Officers also need additional training on the application of sections 101 (a) (15) and 214 (b) which reflects current law, regulation and FAM guidance. The local environments in which visa processing posts operate vary so widely that it would be unrealistic, indeed counterproductive, for adjudicators to rely on an inflexible bright line minimum standard of documentary evidence for visa eligibility. The consular officer's independent judgment - based on a firm understanding of the statutory and regulatory requirements, knowledge of the local conditions, and an informed evaluation of the credibility of the applicant - remains the key element in the adjudication process.

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RECOMMENDATIONS

Recommendation 1: The Bureau of Consular Affairs, in coordination with the Bureau of Legislative Affairs and the Office of the Legal Adviser should draft and submit to Congress a technical amendment to section 214(b) of the Immigration and Nationality Act restoring the H, L, and V visa categories to that section's purview but without an immigrant intent requirement. (Action CA, in coordination with H and L/CA)

Recommendation 2: The Bureau of Consular Affairs should consolidate its guidance on applying 214(b) as a basis for refusal into one chapter in the Foreign Affairs Manual with appropriate cross-references to other sections. (Action CA)

Recommendation 3: The Bureau of Consular Affairs should issue more expansive guidance in the Foreign Affairs Manual on denying a visa under 214(b) when an applicant does not meet the individual 101 (a) (15) requirements of one of the nonimmigrant visa categories. (Action CA)

Recommendation 4: The Bureau of Human Resources, in coordination with the Foreign Service Institute, should require officers going to their first consular assignment to receive refresher training in visa adjudication prior to beginning work in the consular section if they have had extended training or an intervening assignment in another specialty since receiving basic consular training. (Action: DGHR, in coordination with FSI)

Recommendation 5: The Foreign Service Institute's Consular Training Unit, in coordination with the Bureau of Consular Affairs, should develop materials to make 04 State 274068 a key part of its module on applying 214(b) as a basis for refusal. (Action FSI, in coordination with CA)

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ABBREVIATIONS

CA	Bureau of Consular Affairs
CCD	Consolidated consular database
Department	Department of State
DHS	Department of Homeland Security
FSI	Foreign Service Institute
GAO	Government Accountability Office
INA	Immigration and Nationality Act
NIV	Nonimmigrant visa
OIG	Office of Inspector General
SAO	Security advisory opinion
SOP	Standard operating procedure

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APPENDIX I:

Cable transmitting 214 (b) guidance to the field

DRAFTED BY: CA/VO/L:SKFISCHEL -- 12/13/04

APPROVED BY: CA/VO:MHARTY

CA:DBSMITH CA/VO:JJACOBS CA/VO:TEDSON

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M/R:APONCE M:EMOORE SI/SPAS/CONS:ASIMKIN

S/ES-O:RCPASCHALL

R 281655Z DEC 04

FM SECSTATE WASHDC

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KIRKUK 0000

UNCLAS STATE 274068

VISAS

E.O. 12958: N/A

TAGS: CVIS

SUBJECT: INA 214(B), BASIS OF REFUSAL NOT EQUIVALENT TO

INADMISSIBILITY OR IMMIGRANT INTENT

1. M/R (SEP) cleared this telegram.

2. Summary: This cable reviews proper interpretation of section 214(b) of the Immigration and Nationality Act. Section 214(b) has direct applicability to most non-immigrant visa cases. It cannot be simplified to mean only that applicants must have "ties" or must intend to return home. A refusal under section 214(b) is different from a 212(a) refusal, in that the former does not constitute a finding of inadmissibility. End summary.

3. Consular officers spend a significant portion of their time interpreting, applying, and explaining section 214(b) of the immigration and nationality act. Thus, it deserves close reading and careful interpretation. Through this cable, we would like to clear up any possible misunderstandings about 214(b) and its appropriate application. Posts are asked to review carefully this cable with all consular officers.

4. What does the statute actually say? The first sentence of INA 214(b) states that: "every alien (other than a nonimmigrant described in subparagraph (l) or (v) of section 101(a)(15), and other than a nonimmigrant described in any provision of section 101(a)(15)(H)(i) except subclause (b1) of such section) shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer, at the time of application for a visa, and the immigration officers, at the time of application for admission, that he is entitled to a nonimmigrant status under section 101(a)(15)."

5. What does this mean? With limited exceptions, all visa applicants are presumed to be immigrants (and hence not eligible for non-immigrant visas) unless and until they satisfy the consular officer that they qualify for one of the nonimmigrant visa categories defined in INA section 101(a)(15). Per section 291 of the INA, the burden of proof is on the applicant. If a non-immigrant visa applicant does not meet this burden of proof to the satisfaction of the consular officer, then by law the alien is considered to be an applicant for immigrant status and should not receive a nonimmigrant visa.

6. How is this section different from a ground of inadmissibility? Grounds of inadmissibility are set forth in INA 212(a). They generally apply to both immigrant and non-immigrant visas and most have a counterpart in a ground of removal available to the Department of Homeland Security (DHS) under INA 237. INA 214(b) serves as a basis for refusal of visas to aliens who do not establish entitlement to nonimmigrant visa classification by proving that they fall within a definition in INA 101(a)(15). The fact that an alien is denied an NIV under 214(b) does not mean that he alien is inadmissible to the United States. The same NIV applicant who is denied under 214(b) may, for example, be approvable for an immigrant visa.

7. What are the standards for application of 214(b)? This section incorporates by reference the statutory standards for certain nonimmigrant visa classifications listed in 101(a)(15). These standards are further defined in corresponding regulations and FAM guidance. The applicant's failure to meet any one of the specific requirements of the applicable NIV category results in 214(b) denial. For example, failure to possess sufficient funds to defray educational expenses results in a 214(b) denial of student visa. Failure to make substantial investment results in a 214(b) denial

of a treaty investor visa. Failure to possess the intent not to abandon a foreign residence results in denial of a B visa.

8. Why is 214(b) so often summarized as applying solely to intending immigrants? The majority of NIV applications are for visitor or student visas. Most denials are based on failure to meet the residence abroad requirement. Consequently, 214(b) refusals have been equated by some with immigrant intent denials. As consular professionals, we need to be careful when explaining the application of 214(b) and when articulating the bases for refusal in individual cases. There are many NIV categories that do not have any immigrant intent provisions: A, C, D, G, I, K, N, O-1, R, S, T, and U categories. On the other hand, the B, E, F, J, M, O-2, P, Q, and TN categories do possess an immigrant intent requirement either by statute or regulation. The FAM provides guidance on each of these immigrant intent standards as they apply to their particular visa category. The Department is reviewing these sections and will amend them as appropriate to eliminate any possible sources of confusion.

9. Consular Discretion: INA 214(b) requires the nonimmigrant visa applicant to establish "to the satisfaction of the consular officer~ that he is entitled to a nonimmigrant status under section 101(a)(15)". This means that every applicant subject to 214(b) must provide to the conoff a credible showing that the intended activities are consistent with the claimed non-immigrant status. Proper adjudication requires the consular officer to assess the credibility of the applicant and his/her evidence submitted to support the application. If the applicant meets the particular statutory/regulatory requirements of the NIV sought and the consular officer is satisfied that the applicant will lawfully engage in the activities consistent with the particular NIV status, and there are no inadmissibilities, then the visa may be approved.

10. 214(b) Not Applicable In All Categories: It is important to note that Congress has expressly excluded H-1, L, and V visas from the statutory presumption established in 214(b). In adjudicating visa applications in these categories, consular officers must carefully review FAM guidance and other statutory provisions, including 212(a) grounds of inadmissibility.

11. INA 214(b) should not be confused with or used as a substitute for an independent ground of inadmissibility under INA 212(a). The 214(b) basis of refusal may be overcome if the applicant demonstrates to the satisfaction of the consular officer that the applicant lawfully meets and will abide by all the requirements of the particular nonimmigrant visa classification. Inadmissibility attaches when evidence arises that the alien may fall within the purview of INA 212(a). As noted above, such inadmissibility may apply regardless of whether the applicant is seeking a nonimmigrant or an immigrant visa.

12. The question arises whether INA 214(b) constitutes an anti-terrorism tool. As explained above, this section merely separates bona fide nonimmigrants from presumed immigrant applicants. While doing so, it should not be used as or equated with 212(a) grounds of inadmissibility, one of which directly relates to terrorism. Of course, it is accurate to note that during the NIV adjudication

process, consular officers identify applicants who do not qualify for nonimmigrant status. In reviewing all the evidence, documentary and oral, the consular officer exercises sound judgment in assessing the applicant's credibility. Indications of possible deception arising from the applicant's demeanor and/or inconsistencies in the applicant's story may cause the consular officer not to be satisfied that the applicant will comply lawfully with all the requirements of the NIV category in question. The consular officer must focus on each of the requirements of the NIV category and be satisfied that the alien will comply lawfully with each requirement. Those applicants who do not satisfy the consular officer that they will meet these legal requirements are refused under INA 214(b). Persons so refused by a consular officer may unknown to the officer also in some cases be inadmissible under 212(a). But if this process raises any suspicion to the consular officer that the applicant might in any way be involved in suspected terrorist behavior or activity, the consular officer should hold the case in abeyance under Section 221(g) and submit a security advisory opinion (SAO) request providing all the facts in the case, even if it could readily be denied under 214(b). The consular officer should also share the information with the appropriate offices of interest at post and solicit their input should they have additional information or background material inadvertently not previously made available to the Consular Section. An SAO request serves to centralize information about potential terrorist activity and facilitate scrutiny of a potential suspect. Once the application has been referred for an SAO, no visa may be issued until the Department responds to the SAO request.

13. Consistency: Most consular officers spend more time applying section 214(b) than on any other section of law. Careful interpretation and precise understanding of the law makes our work better. FSI's consular training division has begun handing out to all ConGen students laminated reference cards containing the texts of sections 101(a)(15)(b), 214(b), and 291. Posts should keep those sections of law and the FAM notes handy, and consult them frequently. Posts should also review local forms and information sheets to ensure that they reflect and articulate applicable law consistently.

14. As noted earlier, the Department is reviewing and updating relevant sections of 9 FAM. The Department will transmit further guidance when this review is completed.

15. Minimize considered.

POWELL

NNNN

APPENDIX II:

Visa Categories

[Code of Federal Regulations]

[Title 22, Volume 1]

[Revised as of April 1, 2002]

From the U.S. Government Printing Office via GPO Access

[CITE: 22CFR41.12]

[Page 178-180]

TITLE 22--FOREIGN RELATIONS

CHAPTER I--DEPARTMENT OF STATE

PART 41--VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED--Table of Contents

Subpart B--Classification of Nonimmigrants

Sec. 41.12 Classification symbols.

A visa issued to a nonimmigrant alien within one of the classes described in this section shall bear an appropriate visa symbol to show the classification of the alien. The symbol shall be inserted in the space provided in the visa stamp. The following visa symbols shall be used:

Nonimmigrants

Symbol	Class	Section of law
A-1...............	Ambassador, Public Minister, Career Diplomat or Consular Officer, or Immediate Family.	101(a)(15)(A)(i).
A-2...............	Other Foreign	101(a)(15)(A)(ii).

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	Government Official or Employee, or Immediate Family.	
A-3...............	Attendant, Servant, or Personal Employee of A-1 or A-2, or Immediate Family.	101(a)(15)(A)(iii).
B-1...............	Temporary Visitor for Business.	101(a)(15)(B).
B-2...............	Temporary Visitor for Pleasure.	101(a)(15)(B).
B-1/B-2...........	Temporary Visitor for Business & Pleasure.	101(a)(15)(B).
C-1...............	Alien in Transit.....	101(a)(15)(C).
C-1/D............	Combined Transit and Crewman Visa.	101(a)(15)(C) and (D).
C-2...............	Alien in Transit to United Nations Headquarters District Under Sec. 11.(3), (4), or (5) of the Headquarters	101(a)(15)(C).

Agreement.

C-3.............. Foreign Government 212(d)(8).

Official, Immediate

Family, Attendant,

Servant or Personal

Employee, in Transit.

D................ Crewmember (Sea or 101(a)(15)(D).

Air).

E-1............... Treaty Trader, Spouse 101(a)(15)(E)(i).

or Child.

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E-2.............. Treaty Investor, 101(a)(15)(E)(ii).

Spouse or Child.

F-1............... Student............. 101(a)(15)(F)(i).

F-2.............. Spouse or Child of F- 101(a)(15)(F)(ii).

1.

G-1.............. Principal Resident 101(a)(15)(G)(i).

Representative of

Recognized Foreign

	Government to International Organization, Staff, or Immediate Family.	
G-2...............	Other Representative of Recognized Foreign Member Government to International Organization, or Immediate Family.	101(a)(15)(G)(ii).
G-3...............	Representative of Nonrecognized Nonmember Foreign Government to International Organization, or Immediate Family.	101(a)(15)(G)(iii).
G-4...............	International Organization Officer or Employee, or Immediate Family.	101(a)(15)(G)(iv).

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G-5...............	Attendant, Servant, or Personal Employee of G-1 through G-4 or Immediate Family.	101(a)(15)(G)(v).
H-1B..............	Alien in a Specialty Occupation (Profession).	101(a)(15)(H)(i)(b).
H-1C..............	Nurses in health professional shortage areas.	101(a)(15)(H)(i)(c).
H-2A..............	Temporary Worker Performing Agricultural Services Unavailable In the United States (Petition filed on or After June 1, 1987).	101(a)(15)(H)(ii)(a).
H-2B..............	Temporary Worker Performing Other Services Unavailable in the United States	101(a)(15)(H)(ii)(b).

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	(Petition filed on or After June 1, 1987).	
H-3...............	Trainee..............	101(a)(15)(H)(iii).
H-4...............	Spouse or Child of Alien Classified H-1A/B, H2A/B, or H-3.	101(a)(15)(H)(iv).
I.................	Representative of Foreign Information Media, Spouse and Child.	101(a)(15)(I).
J-1..............	Exchange Visitor.....	101(a)(15)(J).
J-2..............	Spouse or Child of J-1.	101(a)(15)(J).
K-1..............	Fiance(e) of United States Citizen.	101(a)(15)(K).
K-2..............	Child of Fiance(e) of U.S. Citizen.	101(a)(15)(K).
K-3..............	Spouse of U.S. citizen.	101(a)(15)(K)(ii)
K-4..............	Child of a K3........	101(a)(15)(K)(iii)
L-1..............	Intracompany	101(a)(15)(L).

	Transferee (Executive, Managerial, and Specialized Knowledge Personnel Continuing Employment with International Firm or Corporation.	
L-2...............	Spouse or Child of Intracompany Transferee.	101(a)(15)(L).
M-1...............	Vocational Student or Other Nonacademic Student.	101(a)(15)(M).
M-2...............	Spouse or Child of M-1.	101(a)(15)(M).
N-8...............	Parent of an Alien Classified SK3 or SN3.	101(a)(15)(N)(i)
N-9...............	Child of N8 or of an SK1, SK2, SK4, SN1,	101(a)(15)(N)(ii)

	SN2 or SN4.	
NATO-1............	Principal Permanent Representative of Member State to NATO (including any of its Subsidiary Bodies) Resident in the U.S. and Resident Members of Official Staff; Secretary General, Assistant Secretary General, and Executive Secretary of NATO; Other Permanent NATO Officials of Similar Rank, or Immediate Family.	Art. 12, 5 UST 1094; Art. 20, 5 UST 1098.
NATO-2............	Other Representative of member state to NATO (including any	Art. 13, 5 UST 1094; Art. 1, 4 UST 1794.

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of Subsidiary

Bodies) including

Representatives, its

Advisers and

Technical Experts of

Delegations, Members

of Immediate Art. 3,

4 UST 1796 Family;

Dependents of Member

of a Force Entering

in Accordance with

the Provisions

Status-of-Forces

Agreement or in

Accordance with the

provisions of the

Protocol on the

Status of

International

Military

Headquarters;

Members of Such a

	Force or Immediate Family if Issued Visas.	
NATO-3............	Official Clerical Staff Accompanying Representative of Member State to NATO (including any of its Subsidiary Bodies) or Immediate Family.	Art. 14, 5 UST 1096.
NATO-4............	Official of NATO (Other Than Those Classifiable as NATO-1) or Immediate Family.	Art. 18, 5 UST 1098.
NATO-5............	Expert, Other Than NATO Officials Classifiable Under the NATO-4, Employed in Missions on Behalf of NATO, and	Art. 21, 5 UST 1100.

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	their Dependents.	
NATO-6............	Member of a Civilian Component Accompanying a Force Entering in Accordance with the Provisions of the NATO Status-of-Forces Agreement; Member of a Civilian Component Attached to or Employed by an Allied Headquarters Under the Protocol on the Status of International Military Headquarters Set Up Pursuant to the North Atlantic Treaty; and their Dependents.	Art. 1, 4 UST 1794; Art. 3, 5 UST 877.

NATO-7............	Attendant, Servant, or Personal Employee of NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, and NATO-6 Classes, or Immediate Family.	Art. 12-20; 5 UST 1094-1098.
O-1...............	Alien with Extraordinary Ability in Sciences, Arts, Education, Business or Athletics.	101(a)(15)(O)(i).
O-2...............	Accompanying Alien...	101(a)(15)(O)(ii).
O-3..............	Spouse or Child of O-1 or O-2.	101(a)(15)(O)(iii).
P-1..............	Internationally Recognized Athlete or Member of Internationally Recognized Entertainment Group.	101(a)(15)(P)(i).

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P-2..............	Artist or Entertainer in a Reciprocal Exchange Program.	101(a)(15)(P)(ii).
P-3..............	Artist or Entertainer in a Culturally Unique Program.	101(a)(15)(P)(iii).
P-4..............	Spouse or Child of P-1, P-2, or P-3.	101(a)(15)(P)(iv).
Q-1..............	Participant in an International Cultural Exchange Program.	101(a)(15)(Q)(i).
Q-2..............	Irish Peace Process Program Participant.	101(a)(15)(Q)(ii).

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Q-3..............	Spouse or child of Q-2.	101(a)(15)(Q)(ii).
R-1..............	Alien in a Religious Occupation.	101(a)(15)(R).

R-2...............	Spouse or Child of R-1.	101(a)(15)(R).
S-5...............	Certain Aliens Supplying Critical Information Relating to a Criminal Organization or Enterprise.	101(a)(15)(S)(i).
S-6...............	Certain Aliens Supplying Critical Information Relating to Terrorism.	101(a)(15)(S)(ii).
S-7...............	Qualified Family Member of S-5 or S-6.	101(a)(15)(S).
T-1..............	Victim of a severe form of trafficking in persons.	101(a)(15)(T)(i)
T-2...............	Spouse of T1.........	101(a)(15)(T)(ii)
T-3...............	Child of T1..........	101(a)(15)(T)(ii)
T-4..............	Parent of T1.........	101(a)(15)(T)(ii)
TN................	NAFTA Professional...	214(e)(2).
TD...............	Spouse or Child of	214(e)(2).

	NAFTA Professional.	
U-1..............	Victim of criminal activity.	101(a)(15)(U)(i)
U-2..............	Spouse of U1.........	101(a)(15)(U)(ii)
U-3..............	Child of U1..........	101(a)(15)(U)(ii)
U-4..............	Parent of U1.........	101(a)(15)(U)(ii)
V-1..............	Spouse of a Legal Permanent Resident Alien.	101(a)(15)(V)(i)
V-2..............	Child of a Legal Permanent Resident Alien.	101(a)(15)(V)(i)
V-3..............	Child of a V1 or V2..	203(d)

[60 FR 10497, Feb. 27, 1995; as amended at 61 FR 1836, Jan. 24, 1996; 63 FR 48578, Sept. 11, 1998; 65 FR 14770, Mar. 17, 2000; 65 FR 20904, Apr. 19, 2000; 66 FR 32742, June 18, 2001; 66 FR 38154, July 23, 2001; 66 FR 53711, Oct. 24, 2001]

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