

## 9 FAM 41.22

# OFFICIALS OF FOREIGN GOVERNMENTS

*(CT:VISA-1316; 09-23-2009)*  
*(Office of Origin: CA/VO/L/R)*

## 9 FAM 41.22 RELATED STATUTORY PROVISIONS

*(CT:VISA-1316; 09-23-2009)*

See INA 101(a)(15)(A), (B), (C), and (G) [8 U.S.C. 1101(a)(15)(A), (B), (C), and (G)].

### **INA 101(a)(15)(A)**

(15) The term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens:

(A)

- (i) an ambassador, public minister, or career diplomatic or consular officer who has been accredited by a foreign government recognized de jure by the United States and who is accepted by the President or by the Secretary of State, and the members of the alien's immediate family;
- (ii) upon a basis of reciprocity, other officials and employees who have been accredited by a foreign government recognized de jure by the United States, who are accepted by the Secretary of State, and the members of their immediate families; and
- (iii) upon a basis of reciprocity, attendants, servants, personal employees, and members of their immediate families, of the officials and employees who have a nonimmigrant status under (i) and (ii) above;

### **INA 101(a)(15)(B)**

(15) The term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens:

(B) an alien (other than one coming for the purpose of study or of

performing skilled or unskilled labor or as a representative of foreign press, radio, film, or other foreign information media coming to engage in such vocation) having a residence in a foreign country which he has no intention of abandoning and who is visiting the United States temporarily for business or temporarily for pleasure;

***INA 101(a)(15)(C)***

(15) The term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens:

- (C) an alien in immediate and continuous transit through the United States, or an alien who qualifies as a person entitled to pass in transit to and from the United Nations Headquarters District and foreign countries, under the provisions of paragraphs (3), (4), and (5) of section 11 of the Headquarters Agreement with the United Nations (61 Stat. 758);

***INA 101(a)(15)(G)***

(15) The term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens:

- (G)
  - (i) a designated principal resident representative of a foreign government recognized de jure by the United States, which foreign government is a member of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (59 Stat. 669) 22 U.S.C. 288, note, accredited resident members of the staff of such representatives, and members of his or their immediate family;
  - (ii) other accredited representatives of such a foreign government to such international organizations, and the members of their immediate families;
  - (iii) an alien able to qualify under (i) or (ii) above except for the fact that the government of which such alien is an accredited representative is not recognized de jure by the United States, or that the government of which he is an accredited representative is not a member of such international organization, and the members of his immediate family;

- (iv) officers, or employees of such international organizations, and the members of their immediate families;
- (v) attendants, servants, and personal employees of any such representative, officer, or employee, and the members of the immediate families of such attendants, servants, and personal employees;

## **9 FAM 41.22 RELATED REGULATORY PROVISIONS**

*(CT:VISA-1316; 09-23-2009)*

See 22 CFR 41.22. *Officials of foreign governments.*

*(a) Criteria for classification of foreign government officials. (1) An alien is classifiable A-1 or A-2 under INA 101(a)(15)(A) (i) or (ii) if the principal alien:*

*(i) Has been accredited by a foreign government recognized de jure by the United States;*

*(ii) Intends to engage solely in official activities for that foreign government while in the United States; and*

*(iii) Has been accepted by the President, the Secretary of State, or a consular officer acting on behalf of the Secretary of State.*

*(2) A member of the immediate family of a principal alien is classifiable A-1 or A-2 under INA 101(a)(15)(A) (i) or (ii) if the principal alien is so classified.*

*(b) Classification under INA 101(a)(15)(A). An alien entitled to classification under INA 101(a)(15)(A) shall be classified under this section even if eligible for another nonimmigrant classification.*

*(c) Classification of attendants, servants, and personal employees. An alien is classifiable as a nonimmigrant under INA 101(a)(15)(A)(iii) if the consular officer is satisfied that the alien qualifies under those provisions.*

*(d) Referral to the Department of special cases concerning principal alien applicants. In any case in which there is uncertainty about the applicability of these regulations to a principal alien applicant requesting such nonimmigrant status, the matter shall be immediately referred to the Department for consideration as to whether acceptance of accreditation will be granted.*

*(e) Change of classification to that of a foreign government official. In the case of an alien in the United States seeking a change of nonimmigrant classification under INA 248 to a classification under INA 101(a)(15)(A) (i) or (ii), the question of acceptance of accreditation is determined by the Department.*

*(f) Termination of status. The Department may, in its discretion, cease to recognize as entitled to classification under INA 101(a)(15)(A) (i) or (ii) any alien who has nonimmigrant status under that provision.*

*(g) Classification of foreign government official. A foreign government official or employee seeking to enter the United States temporarily other than as a representative or employee of a foreign government is not classifiable under the provisions of INA 101(a)(15)(A).*

*(h) Courier and acting courier on official business —(1) Courier of career. An alien regularly and professionally employed as a courier by the government of the country to which the alien owes allegiance is classifiable as a nonimmigrant under INA 101(a)(15)(A)(i), if the alien is proceeding to the United States on official business for that government.*

*(2) Official acting as courier. An alien not regularly and professionally employed as a courier by the government of the country to which the alien owes allegiance is classifiable as a nonimmigrant under INA 101(a)(15)(A)(ii), if the alien is holding an official position and is proceeding to the United States as a courier on official business for that government.*

*(3) Nonofficial serving as courier. An alien serving as a courier but not regularly and professionally employed as such who holds no official position with, or is not a national of, the country whose government the alien is serving, shall be classified as a nonimmigrant under INA 101(a)(15)(B).*

*(i) Official of foreign government not recognized by the United States. An official of a foreign government not recognized de jure by the United States, who is proceeding to or through the United States on an official mission or to an international organization shall be classified as a nonimmigrant under INA 101(a)(15) (B), (C), or (G)(iii).*