

9 FAM 42.32(d)(5) FOURTH PREFERENCE SPECIAL IMMIGRANTS – CERTAIN INTERNATIONAL ORGANIZATION AND NATO CIVILIAN EMPLOYEES

*(CT:VISA-1352; 10-21-2009)
(Office of Origin: CA/VO/L/R)*

9 FAM 42.32(d)(5) RELATED STATUTORY PROVISIONS

(CT:VISA-1352; 10-21-2009)

See INA 101(a)(27)(I) (8 U.S.C. 1101(a)(27)(I)), INA 101(a)(27)(L) (U.S.C. 1101(a)(27)(L)), INA 101(a)(15)(N) (U.S.C. 1101(a)(15)(N)), INA 203(b)(4) (8 U.S.C. 1153(b)(4)), INA 204(a)(1)(G)(i) (8 U.S.C. 1154(a)(1)(G)(i)), and Section 301(c) of Public Law 106-396.

INA 101(a)(27)(I)

(I) (i) an immigrant who is the unmarried son or daughter of an officer or employee, or of a former officer or employee, of an international organization described in paragraph (15)(G)(i), and who

(I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least seven years between the ages of five and 21 years, and

(II) applies for a visa or adjustment of status under this subparagraph no later than his twenty-fifth birthday or six months after the date of the enactment of the Immigration Technical Corrections Act of 1988, whichever is later;

(ii) an immigrant who is the surviving spouse of a deceased officer or employee of such an international organization, and who

(I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the death of such officer or employee, and

(II) files a petition for status under this subparagraph no later than six months after the date of such death or six months after the date of the enactment of the Immigration Technical Corrections Act of 1988, whichever is later;

(iii) an immigrant who is a retired officer or employee of such an international organization, and who

(I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the officer or employee's retirement from any such international organization, and

(II) files a petition for status under this subparagraph no later than six months after the date of such retirement or six months after the date of enactment of the Immigration and Nationality Technical Corrections Act of 1994, whichever is later; or

(iv) an immigrant who is the spouse of a retired officer or employee accorded the status of special immigrant under clause (iii), accompanying or following to join such retired officer or employee as a member of his immediate family

INA 101(a)(27)(L)

(L) an immigrant who would be described in clause (i), (ii), (iii), or (iv) of subparagraph (I) if any reference in such a clause--

(i) to an international organization described in paragraph (15)(G)(i) were treated as a reference to the North Atlantic Treaty Organization (NATO);

(ii) to a nonimmigrant under paragraph (15)(G)(iv) were treated as a reference to a nonimmigrant classifiable under NATO-6 (as a member of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, a

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, or as a dependent); and

(iii) to the Immigration Technical Corrections Act of 1988 or to the Immigration and Nationality Technical Corrections Act of 1994 were a reference to the American Competitiveness and Workforce Improvement Act of 1998

INA 203(b)(4)

b. Preference Allocation for Employment-Based Immigrants. - Aliens subject to the worldwide level specified in section 201(d) for employment-based immigrants in a fiscal year shall be allotted visas as follows:

- (4) Certain special immigrants. - Visas shall be made available, in a number not to exceed 7.1 percent of such worldwide level, to qualified special immigrants described in section 101(a)(27) (other than those described in subparagraph (A) or (B) thereof), of which not more than 5,000 may be made available in any fiscal year to special immigrants described in subclause (II) or (III) of section 101(a)(27)(C)(ii), and not more than 100 may be made available in any fiscal year to special immigrants, excluding spouses and children, who are described in section 101(a)(27)(M).

INA 204(a)(1)(G)(i)

(i) Any alien (other than a special immigrant under section 101(a)(27)(D)) desiring to be classified under section 203(b)(4), or any person on behalf of such an alien, may file a petition with the Attorney General for such classification.

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See 22 CFR 42.32(d)(5)

Aliens subject to the worldwide level specified in section 201(d) for employment-based immigrants in a fiscal year shall be allotted visas as indicated below.

(d) Fourth preference--Special immigrants—

(5) Certain international organization and NATO civilian employees—

(i) Entitlement to status. An alien is classifiable under INA 203(b)(4) as a special immigrant defined in INA 101(a)(27)(I) or (L) if the consular officer has received a petition approved by the DHS to accord such classification, or official notification of such approval, and the consular officer is satisfied from the evidence presented that the alien is within one of the classes described therein.

(ii) Timeliness of application. An alien accorded status under INA 203(b)(4) because of qualification under INA 101(a)(27)(I) or (L) must appear for the final visa interview and issuance of the immigrant visa within six months of establishing entitlement to status.