



9110-9M-P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS-2011-0108]

RIN 1601-ZA11

**Identification of Foreign Countries Whose Nationals Are Eligible
to Participate in the H-2A and H-2B Nonimmigrant Worker Programs**

AGENCY: Office of the Secretary, DHS.

ACTION: Notice.

SUMMARY: Under Department of Homeland Security (DHS) regulations, U.S. Citizenship and Immigration Services (USCIS) may approve petitions for H-2A and H-2B nonimmigrant status only for nationals of countries that the Secretary of Homeland Security, with the concurrence of the Secretary of State, has designated by notice published in the **Federal Register**. That notice must be renewed each year. This notice announces that the Secretary of Homeland Security, in consultation with the Secretary of State, is identifying 68 countries whose nationals are eligible to participate in the H-2A and H-2B programs for the coming year.

DATES: *Effective Date:* This notice is effective January 18, 2015, and shall be without effect at the end of one year after January 18, 2015.

FOR FURTHER INFORMATION CONTACT: Francis Cissna, Office of Policy, Department of Homeland Security, Washington, DC 20528, (202) 447-3835.

SUPPLEMENTARY INFORMATION:

BACKGROUND: Generally, USCIS may approve H-2A and H-2B petitions for nationals of only those countries that the Secretary of Homeland Security, with the concurrence of the Secretary of State, has designated as participating countries. Such designation must be published as a notice in the **Federal Register** and expires after one year. USCIS, however, may allow a

national from a country not on the list to be named as a beneficiary of an H-2A or H-2B petition based on a determination that such participation is in the U.S. interest. See 8 CFR 214.2(h)(5)(i)(F) and 8 CFR 214.2(h)(6)(i)(E).

In designating countries to include on the list, the Secretary of Homeland Security, with the concurrence of the Secretary of State, will take into account factors including, but not limited to: (1) the country's cooperation with respect to issuance of travel documents for citizens, subjects, nationals, and residents of that country who are subject to a final order of removal; (2) the number of final and unexecuted orders of removal against citizens, subjects, nationals, and residents of that country; (3) the number of orders of removal executed against citizens, subjects, nationals, and residents of that country; and (4) such other factors as may serve the U.S. interest. See 8 CFR 214.2(h)(5)(i)(F)(1)(i) and 8 CFR 214.2(h)(6)(i)(E)(1). Examples of factors serving the U.S. interest that could result in the non-inclusion of a country or the removal of a country from the list include, but are not limited to, fraud, abuse, and non-compliance with the terms and conditions of the H-2 programs by nationals of that country.

In December 2008, DHS published in the **Federal Register** two notices, "Identification of Foreign Countries Whose Nationals Are Eligible to Participate in the H-2A Visa Program," and "Identification of Foreign Countries Whose Nationals Are Eligible to Participate in the H-2B Visa Program," which designated 28 countries whose nationals are eligible to participate in the H-2A and H-2B programs. See 73 FR 77,043 (Dec. 18, 2008); 73 FR 77,729 (Dec. 19, 2008). The notices ceased to have effect on January 17, 2010 and January 18, 2010, respectively. See 8 CFR 214.2(h)(5)(i)(F)(2) and 8 CFR 214.2(h)(6)(i)(E)(3). In implementing these regulatory provisions, the Secretary of Homeland Security, with the concurrence of the Secretary of State, has published a series of notices on a regular basis. See 75 FR 2,879 (Jan. 19, 2010) (adding 11

countries); 76 FR 2,915 (Jan. 18, 2011) (removing Indonesia and adding 15 countries); 77 FR 2,558 (Jan. 18, 2012) (adding 5 countries); 78 FR 4,154 (Jan. 18, 2013) (adding 1 country); FR 79 3,214 (Jan.17, 2014) (adding 4 countries).

The Secretary of Homeland Security has determined, with the concurrence of the Secretary of State, that 63 countries previously designated in the January 17, 2014 notice continue to meet the standards identified in that notice for eligible countries and therefore should remain designated as countries whose nationals are eligible to participate in the H-2A and H-2B programs. Further, the Secretary of Homeland Security, with the concurrence of the Secretary of State, has determined that it is now appropriate to add 5 countries whose nationals are eligible to participate in the H-2A and H-2B programs. This determination is made taking into account the four regulatory factors identified above. The Secretary of Homeland Security also considered other pertinent factors including, but not limited to, evidence of past usage of the H-2A and H-2B programs by nationals of the country to be added, as well as evidence relating to the economic impact on particular U.S. industries or regions resulting from the addition or continued non-inclusion of specific countries. In consideration of all of the above, this notice designates for the first time the Czech Republic, Denmark, Madagascar, Portugal, and Sweden as countries whose nationals are eligible to participate in the H-2A and H-2B programs.

Designation of Countries Whose Nationals Are Eligible to Participate in the H-2A and H-2B Nonimmigrant Worker Programs

Pursuant to the authority provided to the Secretary of Homeland Security under sections 214(a)(1), 215(a)(1), and 241 of the Immigration and Nationality Act (8 U.S.C. 1184(a)(1), 1185(a)(1), and 1231), I am designating, with the concurrence of the Secretary of State, nationals

from the following countries to be eligible to participate in the H-2A and H-2B nonimmigrant worker programs:

Argentina

Australia

Austria

Barbados

Belize

Brazil

Bulgaria

Canada

Chile

Costa Rica

Croatia

Czech Republic

Denmark

Dominican Republic

Ecuador

El Salvador

Estonia

Ethiopia

Fiji

Grenada

Guatemala

Haiti
Honduras
Hungary
Iceland
Ireland
Israel
Italy
Jamaica
Japan
Kiribati
Latvia
Lithuania
Macedonia
Madagascar
Mexico
Moldova
Montenegro
Nauru
The Netherlands
Nicaragua
New Zealand
Norway
Panama

Papua New Guinea

Peru

The Philippines

Poland

Portugal

Romania

Samoa

Serbia

Slovakia

Slovenia

Solomon Islands

South Africa

South Korea

Spain

Sweden

Switzerland

Thailand

Tonga

Turkey

Tuvalu

Ukraine

United Kingdom

Uruguay

Vanuatu

This notice does not affect the status of aliens who currently hold valid H-2A or H-2B nonimmigrant status. Persons currently holding such status, however, will be affected by this notice should they seek an extension of stay in H-2 classification, or a change of status from one H-2 status to another. Similarly, persons holding nonimmigrant status other than H-2 status are not affected by this notice unless they seek a change of status to H-2 status.

Nothing in this notice limits the authority of the Secretary of Homeland Security or his or her designee or any other federal agency to invoke against any foreign country or its nationals any other remedy, penalty, or enforcement action available by law.

Jeh Charles Johnson,
Secretary.

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