



DEPARTMENT OF HOMELAND SECURITY

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

RIN 1601-ZA11

Docket No. DHS-2011-0108

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 63 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, 2014, and shall be without effect at the end of one year after January 18, 2014.

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).

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). To allow for the continued operation of the H-2A and H-2B programs, the Secretary of Homeland Security, with the concurrence of the Secretary of State, has published subsequent notices on an annual 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).

The Secretary of Homeland Security has determined, with the concurrence of the Secretary of State, that 59 countries previously designated in the January 18, 2013 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 4 countries whose nationals are eligible to participate in the H-2A and H-2B programs. This determination is made taking into account the four 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 Austria, Italy, Panama, and Thailand 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
Dominican Republic
Ecuador
El Salvador
Estonia
Ethiopia
Fiji
Grenada
Guatemala
Haiti
Honduras
Hungary
Iceland
Ireland
Israel

Italy
Jamaica
Japan
Kiribati
Latvia
Lithuania
Macedonia
Mexico
Moldova
Montenegro
Nauru
The Netherlands
Nicaragua
New Zealand
Norway
Panama
Papua New Guinea
Peru
The Philippines
Poland
Romania
Samoa
Serbia

Slovakia
Slovenia
Solomon Islands
South Africa
South Korea
Spain
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 holding such status, however, will be affected by this notice at the time 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.

[FR Doc. 2014-00331 Filed 01/16/2014 at 8:45 am;

Publication Date: 01/17/2014]