



**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 generally only approve petitions for H-2A and H-2B nonimmigrant status on behalf of 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 85 countries whose nationals are eligible to participate in the H-2A program and 84 countries whose nationals are eligible to participate in the H-2B program for the coming year.

**DATES:** *Effective Date:* [The designation of these countries is effective](#) January 18, 2017, and shall be without effect at the end of one year after January 18, 2017.

**FOR FURTHER INFORMATION CONTACT:** Timothy Simmons, Office of Policy, Department of Homeland Security, Washington, DC 20528, (202) 447-4216.

**SUPPLEMENTARY INFORMATION:**

**BACKGROUND:** Generally, USCIS may approve H-2A and H-2B petitions filed on behalf of nationals of only those countries<sup>1</sup> that the Secretary of Homeland Security, with the concurrence

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<sup>1</sup> With respect to all references to “country” or “countries” in this document, it should be noted that the Taiwan

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

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Relations Act of 1979, Pub. L. No. 96-8, Section 4(b)(1), provides that "[w]henver the laws of the United States refer or relate to foreign countries, nations, states, governments, or similar entities, such terms shall include and such laws shall apply with respect to Taiwan." 22 U.S.C. § 3303(b)(1). Accordingly, all references to "country" or "countries" in the regulations governing whether nationals of a country are eligible for H-2 program participation, 8 CFR 214.2(h)(5)(i)(F)(1)(i) and 8 CFR 214.2(h)(6)(i)(E)(1), are read to include Taiwan. This is consistent with the United States' one-China policy, under which the United States has maintained unofficial relations with Taiwan since 1979.

H-2A and H-2B programs. See 73 FR 77043 (Dec. 18, 2008); 73 FR 77729 (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 2879 (Jan. 19, 2010) (adding 11 countries); 76 FR 2915 (Jan. 18, 2011) (removing Indonesia and adding 15 countries); 77 FR 2558 (Jan. 18, 2012) (adding 5 countries); 78 FR 4154 (Jan. 18, 2013) (adding 1 country); 79 FR 3214 (Jan. 17, 2014) (adding 4 countries); 79 FR 74735 (Dec. 16, 2014) (adding 5 countries); 80 FR 72079 (Nov. 18, 2015) (removing Moldova from the H-2B program and adding 16 countries).

The Secretary of Homeland Security has determined, with the concurrence of the Secretary of State, that 84 countries previously designated in the November 18, 2015 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 program. Additionally, the Secretary of Homeland Security has determined, with the concurrence of the Secretary of State, that 83 countries previously designated in the November 18, 2015 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-2B program.

Further, the Secretary of Homeland Security, with the concurrence of the Secretary of State, has determined that it is now appropriate to add one country 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 St. Vincent and the Grenadines as a country 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 nonimmigrant worker program:

- Andorra
- Argentina
- Australia
- Austria
- Barbados
- Belgium
- Belize
- Brazil
- Brunei
- Bulgaria
- Canada

Chile  
Colombia  
Costa Rica  
Croatia  
Czech Republic  
Denmark  
Dominican Republic  
Ecuador  
El Salvador  
Estonia  
Ethiopia  
Fiji  
Finland  
France  
Germany  
Greece  
Grenada  
Guatemala  
Haiti  
Honduras  
Hungary  
Iceland  
Ireland

Israel  
Italy  
Jamaica  
Japan  
Kiribati  
Latvia  
Lichtenstein  
Lithuania  
Luxembourg  
Macedonia  
Madagascar  
Malta  
Mexico  
Moldova  
Monaco  
Montenegro  
Nauru  
The Netherlands  
Nicaragua  
New Zealand  
Norway  
Panama  
Papua New Guinea

Peru  
The Philippines  
Poland  
Portugal  
Romania  
Samoa  
San Marino  
Serbia  
Singapore  
Slovakia  
Slovenia  
Solomon Islands  
South Africa  
South Korea  
Spain  
St. Vincent and the Grenadines  
Sweden  
Switzerland  
Taiwan  
Thailand  
Timor-Leste  
Tonga  
Turkey

Tuvalu

Ukraine

United Kingdom

Uruguay

Vanuatu

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-2B nonimmigrant worker program:

Andorra

Argentina

Australia

Austria

Barbados

Belgium

Belize

Brazil

Brunei

Bulgaria

Canada

Chile

Colombia

Costa Rica

Croatia

Czech Republic

Denmark

Dominican Republic

Ecuador

El Salvador

Estonia

Ethiopia

Fiji

Finland

France

Germany

Greece

Grenada

Guatemala

Haiti

Honduras

Hungary

Iceland

Ireland

Israel

Italy

Jamaica  
Japan  
Kiribati  
Latvia  
Lichtenstein  
Lithuania  
Luxembourg  
Macedonia  
Madagascar  
Malta  
Mexico  
Monaco  
Montenegro  
Nauru  
The Netherlands  
Nicaragua  
New Zealand  
Norway  
Panama  
Papua New Guinea  
Peru  
The Philippines  
Poland

Portugal  
Romania  
Samoa  
San Marino  
Serbia  
Singapore  
Slovakia  
Slovenia  
Solomon Islands  
South Africa  
South Korea  
Spain  
St. Vincent and the Grenadines  
Sweden  
Switzerland  
Taiwan  
Thailand  
Timor-Leste  
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.

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Jeh Charles Johnson,  
Secretary.

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