



DOS on EB-1 and EB-2 Visa Availability

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AILA Liaison received the following information from the Department of State regarding the recent priority date movement for China-mainland born and India EB-2 categories, as well as information on projections for visa availability in the EB-1 and EB-2 preference categories. The following information will be included in the June 2012 Visa Bulletin, which should be posted soon.

D. CHINA-MAINLAND AND INDIA EMPLOYMENT SECOND PREFERENCE CATEGORY IS UNAVAILABLE

Despite the retrogression of the China and India Employment Second preference cut-off date to August 15, 2007, demand for numbers by applicants with priority dates earlier than that date remained excessive. Such demand is primarily based on cases which had originally been filed with the U.S. Citizenship and Immigration Services (USCIS) for adjustment of status in the Employment Third preference category, and are now eligible to be upgraded to Employment Second preference status. The potential amount of such "upgrade" demand is not currently being reported, but it was evident that the continued availability of Employment Second preference numbers for countries other than China and India was being jeopardized. Therefore, it was necessary to make the China and India Employment Second preference category "Unavailable" in early April, and it will remain so for the remainder of FY-2012.

Numbers will once again be available for China and India Employment Second preference cases beginning October 1, 2012 under the FY-2013 annual numerical limitations. Every effort will be made to return the China and India Employment Second preference cut-off date to the May 1, 2010 date which had been reached in April 2012. Readers should be advised that it is impossible to accurately estimate how long that may take, but current indications are that it would definitely not occur before spring 2013.

USCIS has indicated that it will continue accepting China and India Employment Second preference I-485 filings during May, based on the originally announced May cut-off date.

E. EMPLOYMENT FIRST AND SECOND PREFERENCE VISA AVAILABILITY

Item F of the May Visa Bulletin (number 44) provided projections regarding visa availability in the coming months. Information received from the USCIS after the publication of that item requires an update in the projections for the Employment First and Second preference categories.

Employment First: Based on the current rate of demand, it may be necessary to establish a cut-off date at the end of the fiscal year in an effort to limit number use within the annual numerical limit.

Employment Second: Based on the current rate of demand, it may be necessary to establish a cut-off date for this category for all countries other than China and India. Such action may be required at any time during the next few months.

Please be advised that the above are only estimates for what could happen during the next few months based on applicant demand patterns experienced in recent months.