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US IMMIGRATION & NATIONALITY LAW

JANUARY 2013 IMMIGRATION UPDATE

Posted on January 2, 2013 by Cyrus Mehta

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1. **USCIS To Implement New Immigrant Visa Fee February 1** - USCIS will begin collecting a new fee of $165 from foreign nationals seeking permanent residence in the United States.

2. **USCIS Launches New E-Verify Employers Search Tool** - The new online tool allows the user to find employers and federal contractors currently enrolled in E-Verify.

3. **USCIS Issues Operational Guidance for EB-5 Cases Involving Tenant Occupancy** - The long-awaited memorandum is intended to facilitate adjudication of cases involving issues related to the "tenant-occupancy" methodology for establishing job creation in EB-5 cases.

4. **EB-5 Adjudications Expected to Move to DC** - Within four to six months, EB-5 responsibilities will be moved to Washington, DC, under a new EB-5 Program Office.

5. **ICE Announces Removal Numbers, Issues New National Detainer Guidance,
Discontinues State/Local 287(g) Partnership Agreements** - Critics said the 287(g) immigration enforcement partnership program with state and local entities diverted resources away from crime-fighting and resulted in profiling of Latinos.

6. **USCIS Extends TPS Re-Registration Period for Haitians** - USCIS extended the re-registration period through January 29, 2013.

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15. **Employment-Based Priority Dates Advance in Some Categories for January 2013** - Among other things, for EB-3, China moved ahead by 2.75 months, to September 22, 2006, and India advanced by one week, to November 8, 2002.

16. **ABIL Global: Netherlands** - The recent change of government in the Netherlands has affected the country's immigration regulations.

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Details

1. USCIS To Implement New Immigrant Visa Fee February 1

On February 1, 2013, U.S. Citizenship and Immigration Services (USCIS) will

begin collecting a new fee of $165 from foreign nationals seeking permanent residence in the United States. This new fee was established in USCIS's final rule adjusting fees for immigration applications and petitions announced on September 24, 2010.

The agency said it has worked closely with the Department of State (DOS) to implement the new fee, which will allow USCIS to recover the costs of processing immigrant visas in the United States after immigrant visa-holders receive their visa packages from DOS. This includes staff handling and the cost of producing and delivering the permanent resident card.

Applicants will pay online through the USCIS website after they receive their visa packages from DOS and before they leave for the United States. DOS will provide applicants with information on how to submit the payment when they attend their consular interviews. The new fee is in addition to fees charged by DOS associated with an individual's immigrant visa application.

USCIS processes approximately 36,000 immigrant visa packages each month. Prospective adoptive parents whose child will enter the United States under the Orphan or Hague processes are exempt from the new fee.

A press release announcing the new fee is available at http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=ad70f58f7529b310VgnVCM100000082ca60aRCRD&vgnextchannel=68439c7755cb9010VgnVCM10000045f3d6a1RCRD.
The related Federal Register notice, published at 77 Fed. Reg. 74490 (Dec. 14, 2012), is available at http://www.gpo.gov/fdsys/pkg/FR-2012-12-14/pdf/2012-30226.pdf.

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2. USCIS Launches New E-Verify Employers Search Tool

U.S. Citizenship and Immigration Services (USCIS) has launched a new E-Verify Employers Search Tool that allows the user to find employers and federal contractors currently enrolled in E-Verify.

The search tool includes the capability to filter, sort, and export employer results. It replaces the lists of E-Verify employers and federal contractors that previously appeared on the E-Verify website. It includes currently enrolled

employers and federal contractors through December 15, 2012. Federal contractors self-report whether their contracts have the E-Verify FAR clause. The search tool includes the business name, federal contractor identifier, federal contract employee verification, city, cstate, zip code, and workforce size. The search tool includes only employers and federal contractors that have self-reported that their company has five or more employees.

The E-Verify Employers Search Tool, and links to the User Guide and questions and answers, are available at http://www.uscis.gov/portal/site/uscis/menuitem.fa065d7a1a6674927e1e1c10526e0aa0/?vgnextoid=1c9434bacc30a310VgnVCM100000082ca60aRCRD&vgnextchannel=1c9434bacc30a310VgnVCM100000082ca60aRCRD.

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3. USCIS Issues Operational Guidance for EB-5 Cases Involving Tenant Occupancy

U.S. Citizenship and Immigration Services (USCIS) released long-awaited operational guidance for EB-5 cases involving tenant occupancy on December 20, 2012. USCIS said the memorandum is intended to facilitate adjudication of cases involving issues related to the "tenant-occupancy" methodology for establishing job creation in EB-5 cases. The agency noted that the guidance "has been formulated following careful internal deliberation consultation with sister government agencies," along with a "review of responses to requests for evidence (RFEs) issued in February 2012 to a number of outstanding Regional Center applicants who relied on the tenant-occupancy methodology." USCIS will apply the guidance to pending cases and cases filed on or after December 20, 2012, that rely on the tenant-occupancy methodology. The guidance does not rescind or supersede other EB-5 guidance.

USCIS noted that among the issues raised in the February 2012 RFEs, USCIS sought evidence that the projected jobs attributable to prospective tenants (which would occupy the commercial space created by the EB-5 capital) would represent newly created jobs, not jobs that the tenant had merely relocated. The agency said that such determinations are necessary to assess whether there is a "reasonable causal link" between the EB-5 enterprise and the job creation that would allow for the attribution of the tenant jobs to the EB-5 enterprise. The RFEs "suggested the types of evidence applicants could submit

to make this showing."

In regional center cases that rely on tenant occupancy models, USCIS requires evidence that the claimed jobs result, directly or indirectly, from the economic activity of the EB-5 commercial enterprise. With respect to indirect job creation, applicants and petitioners must project the number of newly created jobs that would not have been created but for the economic activity of the EB-5 commercial enterprise. "In making that projection, they are to use economically and statistically valid forecasting tools," USCIS noted.

The agency said that whether an applicant or petitioner has demonstrated that an EB-5 enterprise caused the creation of indirect tenant jobs requires case-by-case determinations and generally also requires an evaluation of the verifiable detail provided and the overall reasonableness of the methodology as presented. The guidance memo gives additional details about the types of evidence and approaches applicants and petitioners may use, and discusses the appropriate language in approval notices regarding the assumptions underlying the approval.

USCIS said it will issue separate guidance on crediting jobs when more than one EB-5 entity may be seeking credit for an identical position.

The memo is available at http://www.uscis.gov/USCIS/Laws/Memoranda/Interim%20EB-5%20Tenant-Occupancy%20GM.pdf.

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4. EB-5 Adjudications Expected to Move to DC

On December 3, 2012, U.S. Citizenship and Immigration Services (USCIS) Director Alejandro Mayorkas noted on a stakeholder conference call that within four to six months, EB-5 responsibilities will be moved to Washington, DC, under a new EB-5 Program Office. The chief of the new office will report to the USCIS Deputy Director. According to reports, Director Mayorkas said a goal is to move toward a more dynamic, direct e-mail relationship between adjudicators and the public, and to move away from the current "request for evidence" model. The new EB-5 Program Office will handle adjudications, legislative affairs, and policy, in addition to having full-time staff devoted to identifying fraud.

Director Mayorkas also noted that USCIS is working on profound policy issues, and on training officers in the realities of the business world.

In response to questions, USCIS noted that entrepreneurs need to be able to tell their story when pitching to investors, so the agency would also like to see something similar. The more the entrepreneur can clearly articulate his or her situation, the easier it is for USCIS officers to see that the entrepreneur is an expert. Important pieces of information should be well-defined, USCIS said, also noting that fraud indicators are being revised.

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5. ICE Announces Removal Numbers, Issues New National Detainer Guidance, Discontinues State/Local 287(g) Partnership Agreements

U.S. Immigration and Customs Enforcement (ICE) Director John Morton announced on December 21, 2012, the agency's fiscal year (FY) 2012 year-end removal numbers, highlighting trends that underscore the administration's focus on removing from the country convicted criminals and other individuals that fall into priority areas for enforcement.

To further focus ICE resources on the most serious criminal offenders, ICE also issued new
national detainer guidanceon the same day. This guidance limits the use of detainers to individuals who meet the department's enforcement priorities and restricts the use of detainers against individuals arrested for minor misdemeanor offenses, such as traffic offenses and other petty crimes, to ensure that available resources are focused on apprehending felons, repeat offenders, and other ICE priorities. The new guidance applies to all ICE enforcement programs, including the federally administered Secure Communities.

ICE priorities include identifying and removing those who have committed crimes, pose threats to national security, have crossed the border recently without authorization, and/or repeatedly violate immigration law. Overall in FY 2012, ICE's Office of Enforcement and Removal Operations removed 409,849 individuals. Of these, approximately 55 percent, or 225,390, of the people removed were convicted of felonies or misdemeanors. This was almost double the number of criminals removed in FY 2008. The convictions included 1,215 for homicide; 5,557 for sexual offenses; 40,448 for crimes involving drugs; and

36,166 for driving under the influence.

In addition, ICE has also decided not to renew any of its agreements with state and local law enforcement agencies that operate task forces under the 287(g) program. ICE said it has concluded that "other enforcement programs, including Secure Communities, are a more efficient use of resources for focusing on priority cases." The 287(g) program allowed a state or local law enforcement entity to enter into a partnership with ICE to receive delegated authority for immigration enforcement within its jurisdiction. Critics said it diverted resources away from crime-fighting and resulted in profiling of Latinos. As of October 16, 2012, there were 57 such agreements.

The press release is available at http://www.ice.gov/news/releases/1212/121221washingtondc2.htm.

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6. USCIS Extends TPS Re-Registration Period for Haitians

On December 27, 2012, U.S. Citizenship and Immigration Services (USCIS) announced an extension of the re-registration period for Haitian nationals who have already been granted temporary protected status (TPS) and seek to maintain that status for an additional 18 months. Because of the impact Hurricane Sandy has had on regions where Haitians reside, USCIS extended the re-registration period through January 29, 2013.

USCIS strongly encourages Haitian TPS beneficiaries to apply as soon as possible. Under this extension, USCIS also will accept applications from eligible individuals who have already applied after the close of the re-registration period on November 30, 2012, and will continue to accept applications through January 29, 2013.

Approximately 60,000 Haitian nationals (and people having no nationality who last habitually resided in Haiti) are eligible for TPS re-registration. TPS is not available to Haitian nationals who entered the United States after January 12, 2011. The initial 60-day re-registration period was established after the Department of Homeland Security (DHS) announced in October 2012 an 18-month extension of the TPS designation of Haiti, from January 23, 2013, through July 22, 2014.

In the October notice, DHS also automatically extended by six months, through

July 22, 2013, the validity of employment authorization documents (EADs) for eligible Haitian TPS beneficiaries. USCIS said this will allow sufficient time for eligible TPS beneficiaries whose re-registration is timely to receive an EAD without any lapse in employment authorization.

To re-register, TPS beneficiaries must submit Form I-821, Application for Temporary Protected Status, and Form I-765, Application for Employment Authorization. Individuals seeking to re-register do not need to pay the I-821 application fee. However, a biometric services fee (or a fee-waiver request) is required for all re-registrants 14 years of age and older. All re-registrants seeking employment authorization through July 22, 2014, must submit the Form I-765 fee (or a fee-waiver request). Re-registrants who do not want employment authorization are not required to submit the I-765 fee but must still submit a completed I-765. Failure to submit the required filing fees or a properly documented fee-waiver request will result in the rejection of the re-registration application, USCIS said.

The notice is available at http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=89429c42cc7db310VgnVCM100000082ca60aRCRD&vgnextchannel=68439c7755cb9010VgnVCM10000045f3d6a1RCRD.
The related notice published in the Federal Register, which contains more details on the re-registration period's extension, is available at https://www.federalregister.gov/articles/2012/12/28/2012-31032/extension-of-the-re-registration-period-for-haiti-temporary-protected-status?utm_campaign=pi+subscription+mailing+list&utm_medium=email&utm_source=federalregister.gov.

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7. U.S., Canada Sign Visa and Immigration Info-Sharing Agreement

The United States and Canada signed the U.S.-Canada Visa and Immigration Information-Sharing Agreement on December 13, 2012. The agreement will enable Canada and the United States to share information from third-country nationals who apply for a visa or permit to travel to either country. The Department of State said the agreement is intended to help both countries confirm applicants' identities and identify risks and inadmissible persons at the

earliest opportunity.

The agreement authorizes development of arrangements under which the United States may send an automated request for data to Canada, such as when a third-country national applies to the United States for a visa or claims asylum. Such a request would contain limited information, such as the name and date of birth in the case of biographic sharing, or an anonymous fingerprint in the case of biometric sharing. If the identity matches that of a previous application, immigration information may be shared, such as whether the person previously was refused a visa or removed from the other country. The same process would apply in reverse when a third-country national applies to Canada for a visa or claims asylum. Biographic immigration-information sharing is set to begin in 2013, and biometric sharing in 2014.

Under the agreement, information will not be shared regarding U.S. or Canadian citizens or permanent residents.

The announcement is available at http://www.state.gov/r/pa/prs/ps/2012/12/202065.htm.

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8. USCIS To Close Panama City Field Office

U.S. Citizenship and Immigration Services (USCIS) announced on December 18, 2012, that it will permanently close its field office in Panama City, Panama, on February 1, 2013.

The Panama City Field Office had jurisdiction over USCIS applications and petitions from Panama, Ecuador, Colombia, Venezuela, Guyana, French Guiana, and Suriname. After February 1, 2013, these countries will be in the jurisdiction of existing USCIS field offices, as follows:

- Ecuador, Colombia, Venezuela, Guyana, French Guiana, and Suriname will be in the jurisdiction of the USCIS Field Office in Lima, Peru.
- Panama will be in the jurisdiction of the USCIS Field Office in San Salvador, El Salvador.

After February 1, 2013, applications or petitions previously accepted at the Panama City Field Office should be filed as directed in the announcement at http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=

425933a8fb0bb310VgnVCM100000082ca60aRCRD&vgnextchannel=e7801c2c9be44210VgnVCM100000082ca60aRCRD.

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9. DHS Adds Taiwan to Visa Waiver Program

As of November 1, 2012, the Department of Homeland Security (DHS) designated Taiwan for the Visa Waiver Program (VWP). Secretary of Homeland Security Janet Napolitano said the move was "a major step forward in our long-standing economic partnership with Taiwan."

Taiwan joins 36 participants in the VWP, which permits visa-free travel for eligible travelers visiting the United States for 90 days or fewer for business or tourism. In fiscal year (FY) 2011, the VWP accounted for 18.3 million visits to the United States, or more than 60 percent of tourists and business travelers entering the United States by air. In FY 2011, 243,186 visitors from Taiwan traveled to the United States.

In accordance with the VWP designation process, DHS determined that Taiwan complies with key security and information-sharing requirements, such as enhanced law enforcement and security-related data-sharing with the United States; timely reporting of lost and stolen passports; and maintaining high counterterrorism, law enforcement, border control, aviation, and document security standards.

As with other VWP travelers, eligible Taiwan passport holders who wish to participate in the program must apply for advance authorization through the Electronic System for Travel Authorization (ESTA), a DHS Web-based system. Eligible Taiwan passport-holders with an approved ESTA may visit the United States without visas.

The announcement is available at http://www.dhs.gov/news/2012/10/02/dhs-announces-taiwan%E2%80%99s-designation-visa-waiver-program.

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10. USCIS Offers Guidance on E-Verify Best Practices for Foreign Names

U.S. Citizenship and Immigration Services (USCIS) recently answered a query about potential discrepancies related to special characters in foreign names when using the E-Verify system. For example, the biographic page of a passport

does not recognize the German umlauted "?" and will translate it to the machine-readable "ue," whereas a DS-2019 or I-20 may translate it as "u," which can lead to spelling discrepancies in records.

USCIS explained that other than letters, the only characters allowed in E-Verify are spaces, single quotation marks, and hyphens. As a best practice, USCIS said employers should enter their employees' names into E-Verify as they appear in Section 1 of the I-9 employment authorization verification form, without any special characters E-Verify does not accept. USCIS and partner agency systems have means of reconciling variations based on known variations in spelling due to language and culture, USCIS said. E-Verify relies on algorithms to cross-reference employee information, but USCIS said it cannot provide specific information regarding these algorithms.

If E-Verify is unable to initially confirm that a variation in spelling relates to the same person, the case is sent to status verifiers for additional verification under the "name check review process." Through this process, verifiers may be able to reconcile a name variation without a need to contact the individual. If the variation cannot be reconciled, the employee may need to be contacted, USCIS noted.

The query and USCIS's response are available at http://www.aila.org/content/default.aspx?docid=42371.

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11. Outage Disrupts DOL's PERM Online System

The Department of Labor's PERM online system had outage issues from November 21-27, 2012. The Department issued the following alert:

The PERM online filing and processing system was disrupted late Wednesday, November 21, 2012. This disruption was caused in the performance of necessary maintenance, which temporarily disabled certain parts of the system but not the entire system. This occurrence made diagnosing and fixing the problem more difficult. While the system was fully back online late Tuesday, we are assessing the extent of the damage to cases that may have been filed during the period from Thursday to Tuesday afternoon. If you have any questions or concerns about cases you filed during this time period, please send an e-mail to mailto:PERM.Issues@dol.gov

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12. DOL Releases FAQ on H-2A, H-2B iCERT Implementation

The Department of Labor's Office of Foreign Labor Certification (OFLC) released a FAQ in December 2012 on H-2A and H-2B iCERT implementation. The iCERT visa portal system is a Web-based filing and case management platform that provides access to program services across the foreign labor certification programs that OFLC administers.

Among other things, the FAQ notes that employers or their authorized representatives filing in the H-2A program may now file their applications electronically through iCERT. H-2B applications have been accepted through iCERT since October 15, 2012.

The FAQ also states that when filing electronically through iCERT, the preparer must upload all required supporting documentation before submitting the application. Additional documentation cannot be uploaded in connection with the application after submission. Where an employer receives a Request for Further Information (RFI) (H-2B program) or a Notice of Deficiency (NOD) (H-2A program), the employer must respond to the RFI or NOD by providing the additional required documents and information to the Chicago National Processing Center by e-mail or mail, outside of the iCERT System.

The FAQ advises preparers to "remember to upload a scanned copy of the signed and dated program-specific appendix (Appendix B.1 for the H-2B program, or Appendix A.2 for the H-2A program) and all required supporting documentation before submitting an application." For job contractors filing under the H-2B program as joint employers with their employer-clients, a separate attachment containing the employer-client's business and contact information (i.e., Sections C and D of the ETA Form 9142) and a signed and dated Appendix B.1 for the employer-client is still required and must be scanned and uploaded, along with a description of the relationship between the job contractor and the employer-client, before electronically filing the application.

When the Certifying Officer has made a determination to grant temporary labor certification, the employer will receive an original certified ETA Form 9142 and, depending on the program, Appendix B.1 (for H-2B) or A.2 (for H-2A) issued on blue security paper, the FAQ notes. Upon receipt of the original certified ETA

Form 9142, the employer and, if applicable, the employer's attorney or agent must promptly sign and date the appendix containing the requisite program assurances and obligations. A job contractor filing in the H-2B program will also receive its employer-client's ETA Form 9142 Sections C and D page and Appendix B.1, issued on blue security paper, which the employer-client and, if applicable, the employer-client's attorney or agent must promptly sign and date.

The FAQ, which provides additional details, is available at http://www.foreignlaborcert.doleta.gov/pdf/icert_implement_round1.pdf.

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13. Twenty-One Puerto Rican Companies Become 'IMAGE' Certified

Twenty-one businesses in Puerto Rico representing the automotive, marketing, healthcare, restaurant, security, agriculture, food, and telecommunications industries became the latest employers to partner with U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations (HSI) to strengthen their hiring practices, reduce fraud, and ensure they employ a legal workforce.

The 21 companies officially became members of ICE's Mutual Agreement between Government and Employers (IMAGE) on December 6, 2012. IMAGE, which began in 2006, is a voluntary program that allows private sector businesses to partner with ICE to reduce unauthorized employment and the use of fraudulent identity documents. As a result, ICE says, participating employers are able to maintain more secure, stable workforces.

As part of the IMAGE program, ICE provides private companies with education and training on proper hiring procedures, including use of employment screening tools such as E-Verify. IMAGE-certified companies also undergo an audit of their I-9 forms to ensure that current employees are eligible to work in the United States.

The announcement, which includes details on the 21 companies, is available at http://www.ice.gov/news/releases/1212/121206sanjuan.htm. Puerto Rico employers interested in learning more about IMAGE membership may call the ICE IMAGE coordinator in San Juan at 787-729-5151. For more information, see http://www.ICE.gov/image.

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14. **DHS Announces CNMI-Only Transitional Worker Limit**

The Department of Homeland Security (DHS) announced that the fiscal year (FY) 2013 limit for Commonwealth of the Northern Mariana Islands (CNMI)-Only Transitional Workers (CW-1) is 15,000. The Consolidated Natural Resources Act of 2008 (CNRA) requires an annual reduction of the number of CW-1s, the nonimmigrant category for these transitional workers.

USCIS noted in a related announcement that under the CNRA, the CNMI became part of the United States for purposes of immigration law on November 28, 2009. The CNRA included a transition period to eventually phase out the CNMI's nonresident worker program and transition to the U.S. federal immigration system. The CW-1 transitional worker program allows foreign nationals who are ineligible for any existing employment-based nonimmigrant category under the Immigration and Nationality Act to work in the CNMI during the transition period. An annual reduction in the total number of CW-1s granted each year will lead to the elimination of the CW nonimmigrant classification by the end of the transition period, USCIS noted. The CW program will end on December 31, 2014, unless it is extended by the Secretary of Labor.

For FY 2012, the numerical limitation for CW-1s was set at 22,416, during which employers in the CNMI filed Form I-129CW petitions for more than 12,000 transitional workers. DHS said it has set the CW-1 limit for FY 2013 at 15,000 "to meet the CNMI's existing labor market needs and provide opportunity for potential growth, while reducing the numerical limitation as required by the CNRA." Petitions requesting a work start date in FY 2013 (between October 1, 2012, and September 30, 2013) will be counted toward the 15,000 limit.

This does not affect the status of current CW-1 workers unless their employer files for an extension of their current authorized period of stay or they seek to change CW-1 employers. The numerical limitation only applies to CW-1 principals and does not directly affect the status of a person currently holding CW-2 status as the spouse or minor child of a CW-1 nonimmigrant. However, CW-2 nonimmigrants may be indirectly affected because their status depends upon that of the principal CW-1.

The announcement is available at
http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f6141765

43f6d1a/?vgnextoid=f30e9a409115b310VgnVCM100000082ca60aRCRD&vgnextchannel=68439c7755cb9010VgnVCM10000045f3d6a1RCRD. A related Federal Register notice is available at http://www.gpo.gov/fdsys/pkg/FR-2012-11-30/pdf/2012-29025.pdf. For more information and announcements about immigration benefits in the CNMI, see the CNMI Web page at http://www.uscis.gov/cnmi.

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15. **Employment-Based Priority Dates Advance in Some Categories for January 2013**

The latest Visa Bulletin from the Department of State's Visa Office notes that there has been no change in EB-1 priority dates, which are Current. In the EB-2 category, China progressed 1.5 months, to December 8, 2007. There was no change in India, which remains at September 1, 2004, or in Mexico or the Philippines, which remain Current. In the EB-3 category, Mexico advanced 1.5 months, to February 1, 2007. There was no change in the Philippines in EB-3, which remains at August 15, 2006. However, for EB-3, China moved ahead by 2.75 months, to September 22, 2006, and India advanced by one week, to November 8, 2002.

The latest Visa Bulletin is available at http://www.travel.state.gov/visa/bulletin/bulletin_5834.html.

16. **ABIL Global: Netherlands**

The recent change of government in the Netherlands has affected the country's immigration regulations.

A proposal to amend the Dutch Nationality Act will be withdrawn, the government announced on November 27, 2012. The proposal was sharply criticized, particularly its provisions to further reduce dual nationality. The current law already generally prohibits dual nationality, but applicants who are married to a Dutch person were exempt, as were Dutch nationals who acquire the nationality of another country and are married to a person of that nationality. Other measures that will not go through now include the introduction of an income threshold and a qualification requirement (at least two years of work experience in the Netherlands or at least two years of vocational qualification in the Netherlands).

Also, as of January 1, 2013, the financial penalties for non-compliance with the Employment of Foreigners Act (EFA) have increased drastically. Companies employing foreigners without the required work permit were previously fined € 8,000 per employee. This will be raised to € 12,000. In case of a second offense within five years, this amount is raised by 100% to € 24,000 per employee (previously two years), or € 36,000 per employee if the EFA is violated for the third time within the five-year period. The company can also be shut down for up to three months if three offenses occur within five years, provided that the company has been warned in advance about the possibility of being shut down.

There is better financial news for family reunification applicants. Filing fees are reduced considerably as of January 2013. The reduction is a direct consequence of a long-pending complaint of the European Commission against the Netherlands. The Court of Justice of the European Union (CJEU) ruled on April 26, 2012 (C-508/10) that the government fee of € 401 for a European Community long-term resident permit is "excessive and disproportionate." The Dutch High Administrative Court followed this ruling in a judgment of October 9, 2012, on the Family Reunification Directive, applying the same principles of EU law as the CJEU. In response to this ruling, the Netherlands' State Secretary for Security and Justice announced that the government fee for family reunification would be reduced from € 1,550 to € 225 for visa nationals, and from € 1.250 to € 225 for visa-exempted nationals. The government fee for an EU Blue Card remains at € 750. Because the EU Blue Card is also based on an EU Directive, it could be argued that this amount is also "excessive and disproportionate."

In other news, some important restrictions on family reunification were introduced on October 1, 2012, of which the most remarkable was the abolition of conjugal partner immigration (with the exception of couples who are not allowed to marry according to the laws of the country where they live). This was introduced only days before the former government was replaced by the current one, and when the newly elected Parliament had already spoken out against such restrictions. This political gambit has not yet led to a clear announcement that the measures will be withdrawn or to continued opposition in Parliament. It remains to be seen if these measures will be maintained.

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