

9 FAM 41.22 PROCEDURAL NOTES

*(CT:VISA-1043; 09-26-2008)
(Office of Origin: CA/VO/L/R)*

9 FAM 41.22 PN1 TAIPEI ECONOMIC AND CULTURAL REPRESENTATIVE OFFICE (TECRO)

9 FAM 41.22 PN1.1 TECRO Employees Unable to Receive A or G Visas

(TL:VISA-320; 09-27-2001)

The United States does not have official relations with Taiwan, nor does it recognize Taiwan as an independent, sovereign state. Therefore, employees of the Taipei Economic and Cultural Representative Office (TECRO) may not receive "A" or "G" nonimmigrant visa classification. Representatives of Taiwan employed by TECRO currently receive E nonimmigrant visas and are admitted to the United States in E-1 nonimmigrant classification.

9 FAM 41.22 PN1.2 TECRO Applicants Exempt from DS-157 Requirement

(TL:VISA-551; 06-12-2003)

TECRO E-1 applicants are exempt from submitting Form DS-157, Supplemental Nonimmigrant Visa Application. Despite this exemption, consular officers retain the right to require a Form DS-157 from any applicant seeking any visa classification.

9 FAM 41.22 PN1.3 TECRO Dependents Over 21 Years of Age Entitled to "E-1" Classification

(TL:VISA-320; 09-27-2001)

- a. Under INA 101(A)(15)(E) and INA 101(B)(1) of the Immigration and Nationality Act, as amended, children of treaty traders and

investors who reach the age of 21 become ineligible for "E" nonimmigrant classification. However, TRA 4(A) of the Taiwan Relations Act (TRA) preserves for the dependent sons and daughters of TECRO employees over the age of 21, the entitlements "applied with respect to Taiwan prior to January 01, 1979," the date of Taiwan's derecognition by the United States.

- b. Accordingly, pursuant to TRA 4(A), unmarried dependent sons and daughters of TECRO employees may remain in valid "E" nonimmigrant classification. They may also be issued visas for such classification after the age of 21, provided that they continue to meet the definition of "immediate family" as defined in 22 CFR 41.21(a)(3). "Immediate family" includes "unmarried sons and daughters" whether by blood or adoption, who are not members of some other household, and who will reside regularly in the household of the principal alien."

9 FAM 41.22 PN2 TECRO EMPLOYEES AND/OR DEPENDENTS AUTHORIZED DURATION OF STATUS (D/S)

(CT:VISA-1043; 09-26-2008)

The employees of TECRO and their dependents admitted in E-1 status are authorized to use D/S by the *United States Citizenship and Immigration Service (USCIS)*, who will annotate the Form I-94, Arrival-Departure Record, "D/S" for these aliens at the port of entry.

9 FAM 41.22 PN3 PROCEDURES FOR MAKING APPLICATION FOR "E" REINSTATEMENT

(CT:VISA-1043; 09-26-2008)

- a. The dependents of TECRO employees who were deemed to be out of status because the *USCIS* officer at the port of entry annotated their Form I-94, with an expiration date instead of "D/S," may apply for reinstatement to "E" status.
- b. TECRO must submit the following to the Visa Office (VO), through American Institute/Taiwan (AIT):
 - (1) An applicant's passport, valid for at least 6 months;

- (2) A currently valid Form I-94. (The *USCIS* will not consider processing a case whose Form I-94 has expired.); and
- (3) A letter from TECRO requesting that the *USCIS* annotate the applicant's Form I-94 to read: D/S.

9 FAM 41.22 PN4 EMPLOYMENT AUTHORIZATION FOR TECRO DEPENDENTS

(TL:VISA-320; 09-27-2001)

An alien spouse or unmarried son or daughter of a TECRO employee may apply for employment authorization under 8 CFR 274.12(C)(2). In order to be eligible to apply for employment authorization under this section, unmarried sons and daughters of TECRO employees who are older than 21 must meet the definition of "immediate family" members set forth in 22 CFR 41.21(a)(3). They must also fall within the definition of the term "dependent" set forth in 8 CFR 214.2(A)(2).

9 FAM 41.22 PN4.1 Employment Authorization for Dependent Students of TECRO Employees

(TL:VISA-320; 09-27-2001)

Accordingly, employment authorization may be requested by unmarried sons and daughters of TECRO employees who are older than 21 years of age, under the age of 23, and in full-time attendance as students at post-secondary educational institutions as provided in 8 CFR 214.2(A)(2)(III). Under no circumstances may the employment authorization benefits afforded to dependents of TECRO employees exceed those provided to dependents under 8 CFR 214.2(A)(2) and (G)(2). TECRO dependents seeking to apply for employment authorization should follow existing procedures set forth in 8 CFR 274(A).

9 FAM 41.22 PN5 ACCREDITED OFFICIALS IN TRANSIT

(TL:VISA-320; 09-27-2001)

An accredited official of a foreign government intending to proceed in immediate and continuous transit through the United States on official

business for that government is entitled to the benefits of INA 212(d)(8). The foreign government must grant similar privileges to officials of the United States, and is classifiable C-3 under the provisions of INA 101(a)(15)(C). Members of the immediate family, attendants, servants, or personal employees of such an official receive the same classification as the principal alien.