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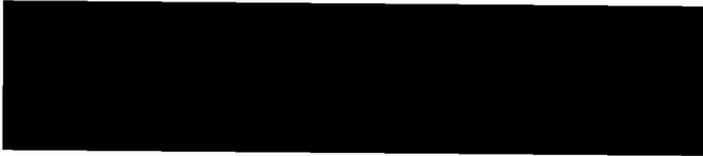
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FILE: EAC 06 006 53357 Office: NEBRASKA SERVICE CENTER Date: **JUN 11 2008**

IN RE: Petitioner:   
Beneficiary: 

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

*Maura Deardrick*  
for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in environmental economics. The director determined that the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

On appeal, the petitioner argues that he meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3). More specifically, the petitioner asserts that the evidence of record satisfies the regulatory criteria at 8 C.F.R. §§ 204.5(h)(3)(iii), (iv), (v), (vi), and (viii).

Section 203(b) of the Act states, in pertinent part, that:

(1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with extraordinary ability. -- An alien is described in this subparagraph if --

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry into the United States will substantially benefit prospectively the United States.

Citizenship and Immigration Services (CIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the regulation at 8 C.F.R. § 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that he has sustained national or international acclaim at the very top level.

This petition, filed on October 7, 2005, seeks to classify the petitioner as an alien with extraordinary ability as an environmental economist. At the time of filing, the petitioner was working for the World Bank as an "Extended Term Consultant" for environmental and municipal water projects in Europe and Central Asia (ECA). The petitioner earned a Ph.D. in Physical Environment Chemistry from the Kazakh National

Academy of Science in 1992 and a Master of Science degree in Resource Economics from the University of Massachusetts in 1998.

The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, internationally recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. A petitioner, however, cannot establish eligibility for this classification merely by submitting evidence that simply relates to at least three criteria at 8 C.F.R. § 204.5(h)(3). In determining whether the petitioner meets a specific criterion, the evidence itself must be evaluated in terms of whether it is indicative of or consistent with sustained national or international acclaim. A lower evidentiary standard would not be consistent with the regulatory definition of "extraordinary ability" as "a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The petitioner has submitted evidence pertaining to the following criteria.

*Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.*

In order for published material to meet this criterion, it must be primarily about the petitioner and, as stated in the regulations, be printed in professional or major trade publications or other major media. To qualify as major media, the publication should have significant national or international distribution. Some newspapers, such as the *New York Times*, nominally serve a particular locality but would qualify as major media because of significant national distribution, unlike small local community papers.<sup>1</sup>

On appeal, the petitioner argues that published work authored by him meets this regulatory criterion. The plain language of this regulatory criterion, however, requires the published material to be "about the alien" rather than written by the alien. The reports and articles authored by the petitioner are about water sector development rather than the petitioner. Such material is far more relevant to the "authorship of scholarly articles" criterion at 8 C.F.R. § 204.5(h)(3)(vi) and will be fully addressed there.

In this case, there is no evidence of published material about the petitioner in professional or major trade publications or other form of major media. As such, the petitioner has not established that he meets this criterion.

*Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.*

The regulation at 8 C.F.R. § 204.5(h)(3) provides that "[a] petition for an alien of extraordinary ability must be accompanied by evidence that the alien has sustained national or international acclaim and that his or her

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<sup>1</sup> Even with nationally-circulated newspapers, consideration must be given to the placement of the article. For example, an article that appears in the *Washington Post*, but in a section that is distributed only in Fairfax County, Virginia, for instance, cannot serve to spread an individual's reputation outside of that county.

achievements have been recognized in the field of expertise.” Evidence of the petitioner’s participation as a judge must be evaluated in terms of these requirements. The weight given to evidence submitted to fulfill the criterion at 8 C.F.R. § 204.5(h)(3)(iv), therefore, depends on the extent to which such evidence demonstrates, reflects, or is consistent with sustained national or international acclaim at the very top of the alien’s field of endeavor. A lower evidentiary standard would not be consistent with the regulatory definition of “extraordinary ability” as “a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). In an occupation where judging the work of others is an inherent duty of the occupation, such as an instructor, teacher, professor, or editor, simply performing one’s job related duties demonstrates competency, and is not evidence of national or international acclaim.<sup>2</sup> Rather, the petitioner must demonstrate that his selection to serve as a judge of the work of others in his field was consistent with national or international acclaim at the very top of his field.

The petitioner submitted a December 8, 2003 electronic mail message originating from the United Nations Environment Programme (UNEP), Division of Global Environmental Facility (GEF) Coordination which requested comments regarding “a supplementary finance request for the project entitled ‘Persistent Toxic Substances, Food Security and Indigenous Peoples of the Russian North.’” This message was subsequently forwarded to the petitioner and three of his coworkers by ██████████ ECA-GEF Regional Coordination Team, Europe and Central Asia, World Bank. ██████████’s message states: “Vladimir/ Rita/ [the petitioner]/ Arcadie: Please find attached UNEP’s proposal . . . . We would appreciate letting us know if you have any comments or perhaps know someone who could or would be interested in providing comments.” The petitioner also submitted a copy of the comments he submitted in response to the UNEP request.

An October 23, 2006 letter from counsel submitted in response to the director’s request for evidence addresses the preceding evidence stating:

The [petitioner] was asked to comment on the U.N. project for the Russian Federation. The U.N. project had been submitted to the World Bank along with a request for financing. The [petitioner] sent his review to the **Global Environmental Facility (GEF) manager for the region,** ██████████ Ms. ██████████ submits the comments anonymously to the GEF headquarters, which then makes a decision on the project.

We cannot ignore that staff from the GEF headquarters, rather than the petitioner, made the final determination regarding funding for the UNEP proposal. In this instance, it is apparent that the GEF headquarters staff could accept or reject any reviewer’s comments in making their determination. Further, ██████████’s message indicates that input would be accepted from multiple individuals “who could or would be interested in providing comments.” Finally, it appears that responding to the UNEP’s request for comments was a task inherent to the petitioner’s position at the World Bank as an environmental economist.

On appeal, the petitioner states:

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<sup>2</sup> This is true with all duties inherent to an occupation. For example, publication is inherent to scientific research. Thus, the mere publication of scholarly articles cannot demonstrate national acclaim. The petitioner must demonstrate that the articles have garnered national attention, for example, by being widely cited.

[F]or the last two years I have been working as an assessor for the Development Market Place funded by the World Bank and world leading donors. . . . Two projects I selected in 2007 were awarded \$200,000 grants each and will be presented at the Development Market Place Fair at the World Bank on May 7-9, 2007.

I am constantly involved in assessment of the technical proposals and consultant selection for the World Bank projects and consulting assignments. My job also includes assessment of the World Bank projects after their completion. I am a primary author of two Implementation Completion Reports (ICRs) for the Bank projects, in Russia and in Azerbaijan. In the case of Azerbaijan, the report was reviewed by the deputy prime-minister's office; it was a key instrument supporting the decision to continue with the similar type of investments in this country.

The petitioner's appellate submission included a January 29, 2007 electronic mail message inviting him to participate "in the second round team assessment meeting for the DM2007 Competition." The petitioner's participation in this event occurred subsequent to the petition's filing date. A petitioner, however, must establish eligibility at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Regl. Commr. 1971). Accordingly, the AAO will not consider this evidence in this proceeding. Nevertheless, there is no evidence regarding the circumstances under which the petitioner was selected as an assessor or the level of acclaim associated with such an assignment.

With regard to the petitioner's assessment of technical proposals, consultant selections, and preparation of ICRs, such duties appear to be inherent to his position at the World Bank as an environmental economist. The petitioner has not established that the preceding duties assigned to him by his employer significantly distinguish him from most others in his field. Duties or activities which nominally fall under a given regulatory criterion at 8 C.F.R. § 204.5(h)(3) do not demonstrate national or international acclaim if they are inherent or routine to a particular job assignment, or in a substantial proportion of positions within one's occupation. In this case, there is no evidence showing that the petitioner has judged the work of others in his field in a manner outside the general duties of his position at the World Bank and consistent with sustained national or international acclaim at the very top of his field.

In light of the above, the petitioner has not established that he meets this criterion.

*Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.*

The petitioner submitted several recommendation letters in support of the petition. These letters discuss the petitioner's educational qualifications, work experience, publications, and World Bank projects, but they fail to establish that specific work attributable to him constitutes original contributions of major significance in environmental economics.

, now an international consultant, states that he retired from a senior staff position at the World Bank in 2002. He further states:

Among my managerial assignments at the World Bank[,] I was Division Chief for Public Sector Management for the Europe and Central Asia regions - which included the new states [o]f the former USSR. In that connection, I led several high-profile World Bank missions to those states, including to Kazakhstan in 1992, where I had the good luck of obtaining the services of [the petitioner] as advisor to the mission.

\* \* \*

[B]y 1996, I was able to hire [the petitioner] on a 'test' basis as a Washington-based consultant in my division, where he performed at his usual high level. Although a temporary hiring freeze prevented me from retaining him in my division, as I wanted, he managed to obtain important assignments in other parts of the organization.

\* \* \*

[The petitioner] now possesses high-level skills in both environmental economics and public service delivery. Each of these skills is in scarce supply in itself, and I know of no other researcher who has a combination of them all. He has a Ph.D. in environmental chemistry from Kazakh National University (a prestigious one in the former USSR), and a Masters in Environmental Economics from the University of Massachusetts. He now specializes in environmental and water issues. Because of his reputation and expertise, he was invited to work for a time in the Organization of Economic Cooperation and Development (OECD) in Paris, where he developed the Water Reform guide for the countries emerging from the former Soviet Union, and wrote several other papers on water sector performance and particularly on development of the public institutions providing water services.

\* \* \*

[The petitioner] has carried out economic, institutional and environmental assessment of World Bank-assisted projects in Central Asia and Eastern European countries; monitored implementation and post-project evaluation, and conducted economic analyses for the Global Environmental Facility (GEF). Just this year, he wrote a series of articles on the future of water sector reform in Europe and Central Asia, published in one of the most respected magazine in the field – *The Global Water Intelligence*.

The references to the petitioner's published work relates to the "authorship of scholarly articles" criterion at 8 C.F.R. § 204.5(h)(3)(vi). Here it should be emphasized that the regulatory criteria are separate and distinct from one another. Because separate criteria exist for authorship of scholarly articles and original contributions of major significance, CIS clearly does not view the two as being interchangeable. If evidence sufficient to meet one criterion mandated a finding that an alien met another criterion, the requirement that an alien meet at least three criteria would be meaningless. We will fully address the reports and articles authored by the petitioner under the next criterion.

[REDACTED], Senior Economist (Health), Human Development Sector, ECA Region, World Bank, states:

[The petitioner] started working with World Bank teams and on Bank loan projects when he contributed to a joint regional health reform project in Russia and Central Asia funded by the United States Agency for International Development. He worked extensively with U.S.-based project teams in Central Asian Republics. At the request of USAID [United States Agency for International Development], he provided collaboration with World Bank at that time as an environmental specialist, and worked on a comprehensive country health sector review in Turkmenistan in 1993 and in Kazakhstan in the mid-1990s.

\* \* \*

[The petitioner] is the chief author of many peer-reviewed publications in a number of countries, including the United Kingdom, Russia, and Kazakhstan. His publications are mainly based on his work related to World Bank projects. Many of these projects are innovative first generation projects, requiring new approaches in the area of economic analysis and implementation. For example, for a World Bank loan project in Atyrau, Kazakhstan he performed (among many other elements of the project preparation) an analysis of the global burden of disease for the first time in that city as part of the comprehensive project design. As an in-house consultant for the Bank in 1997-2001, and again since 2003, he has worked on the development and implementation of a national performance-based water utility program, supported by a World Bank loan in Moldova, Russia and Ukraine.

Among his other accomplishments through his tenure with the World Bank, he has:

- Carried-out economic, institutional and environmental assessment of the projects, conducted implementation monitoring and post-project evaluation; analyzed institutional implications of selected World Bank projects in Central Asia and Eastern Europe; conducted economic analyses and incremental cost analyses for the World Bank and Global Environmental Facility (GEF) projects. The Bank has supported initiation of several GEF projects in Russia, Moldova, Ukraine and Bosnia-Herzegovina;
- Produced analytic strategy papers for municipal water and sanitation and National Environmental Action Plans for several countries. He prepared and managed water utility performance indicators' projects in nine countries of the former Soviet Union. He developed the water reform guide for the former Soviet Union region generally. He provided analyses of the institutional and economic reforms of the water sector, private sector participation and social aspects of the water reform (water subsidies for poor, right for the access for clean water, and other topics);
- Conducted studies on financial and quasi-fiscal subsidies in infrastructure sector in Europe and Central Asia. He has maintained energy and water sector performance database for water and energy sector for 29 countries of the region, and produced reports on the basis of economic information and econometric models from this dataset. He developed software for water sector assessment on a country-level and regional level.

While the petitioner's work for the World Bank is no doubt of value, there is no evidence showing that it has attracted significant attention beyond his current and former coworkers and collaborators such that it can be considered original contributions of major significance in the field.

[REDACTED] Senior Public Health Specialist, World Bank, states:

[The petitioner] is well placed to advise the United States government on water resource issues in Central Asia.

[The petitioner] has extensive experience working on development issues related to water and wastewater in the region. He was a key advisor on a USAID health project in Central Asia and understands the United States' development assistance. He has worked with OECD . . . which gives him an in-depth understanding of the European Union development programs. His project with the World Bank has brought his expertise to an even wider application in other regions. [The petitioner's] development experience is complemented by his scientific work on water regulation. This includes numerous publications on tariff systems needed to maintain water systems. One of the legacies of the former Soviet Union is non-sustainable water system due to low tariffs. [The petitioner] has done pioneering work on the boundary between water and economics with particular importance of his contributions on quasi-fiscal deficits. He is also highly accomplished with developing systems for monitoring and evaluating water projects.

[REDACTED], Chief, Program-Directed Research, Hazardous Materials Laboratory, California Environmental Protection Agency, states:

I was introduced to [the petitioner] in December 1993, when I was investigating the chemical levels of POPs [Persistent Organic Pollutants] in the population of the newly-formed republic of Kazakhstan, a country which had been part of the former Soviet Union. We were conducting country-wide studies that measured the "body burdens" of these persistent and toxic chemicals in people, and we used these data to evaluate health effects of these chemicals on the people of Kazakhstan.

\* \* \*

[The petitioner] played a key role in the success of the project. We were tasked with making sensible in-country measurements of these chemical pollutants, which meant that he had to target the sites appropriate for each chemical, as well as the populations which might be expected to experience high exposures to these POP pollutants. These tasks required an expert with a unique and highly technical knowledge of how these chemicals are used and disposed of, the cradle-to-grave path of these chemicals," and a knowledge and familiarity of the industrial and manufacturing base of the country, so that we might target likely "hot spots" where these chemicals might likely be found at high levels in people.

[The petitioner's] unique combination of technical expertise in environmental and economic issues were important assets as a leader of a number of important projects on POPs, nutrient pollution in water resources, and wastewater treatment processes. He has continued his important work on mitigation and abatement of sources of POP pollutants, and on their economic implications. Since 2003, he has been a leader in the POPs studies and the POPs elimination program in the Russian Federation and in Moldova, studies that will pave the way for these countries to successfully implement their international obligations on POPs.

\* \* \*

[The petitioner's] work programs on water protection and environmental assessment are well-known and cited. He presented papers at international environmental conferences sponsored by organizations such as the European Commission for Environment, OECD, and the World Bank.

██████████ states that the petitioner's "work programs on water protection and environmental assessment are well-known and cited," but there is no documentary evidence to support her observation. For example, the record includes no scientific citation indices showing that the petitioner's reports and articles are widely cited by others in his field. Numerous independent citations would provide solid evidence that other economic scholars have been influenced by the petitioner's work and are familiar with it. On the other hand, few or no citations of an individual's work may indicate that his work has gone largely unnoticed in his field.

Kennan Scholar, Woodrow Wilson International Center for Scholars, and Professor of Anthropology at University College London, states:

In Central Asia, I had the good fortune to travel extensively with [the petitioner] on missions from the World Bank and from [the] United States Agency for International Development, where both of us were part of a region-wide health reform project.

\* \* \*

Though our disciplines are different, there is, nevertheless, some overlap. It is in this overlapping space that I have been able to see his keen, creative and thoughtful intellect at work. For instance, in a recent project of his, looking at cost recovery of water use in Turkmenistan, precisely because of his intimate knowledge of the people, their culture, and the specific interplay between environment and cultural behavior in the region, he was the only one on a large World Bank project who brought knowledge of human behavior in arguing for a locally-appropriate water system in Turkmenistan, a problematic country with tragically little potable water. As so often happens in international development projects, standardized solutions are demanded with little attention paid to the suitability of the project design on the local and regional cultural and social environment. His ideas for this project have been internationally recognized, and he is in the process of publishing them in the world's leading water resources journal.

██████████, Distinguished Service Professor – Economics, University of Florida, states:

[The petitioner] applies empirical analysis to a number of water issues: pricing and financial sustainability, network expansion, environmental impacts, and water quality. In particular, his contributions to guiding IBNET [International Benchmarking Network for Water and Sanitation Utilities] deserve significant recognition. Through his Start-up Tool kit, his initiatives at the World Bank have involved dozens of organizations and hundreds of companies in the creation of consistent datasets. Without the gentle prodding of professionals like [the petitioner], our understanding of time trends and cross-sectional patterns would be woefully lacking.

In his positions within the World Bank, he has served as an international civil servant: his name may not appear on contributions to publications, yet his work contributes in important ways to on-going policy dialogues. Those familiar with water utility benchmarking and to the initiatives required to improve sector performance deeply appreciate the leadership he has shown in this area. His work has involved supervising about one-hundred contracts and motivating colleagues to create advanced (but usable) information systems.

\* \* \*

[The petitioner] brings a unique set of technical skills required for improving the performance in infrastructure sectors. Furthermore, his networking skills have speeded up the data collection process in Africa, South America, Asia, and Central Europe – providing an information library for managers and researchers. His expertise regarding water sector developments in the former Soviet Union matches those of anyone in government agencies, international organizations, or academic institutions. He has been in a position to collaborate with practitioners and scholars – writing papers, developing data sets for evaluating performance, and critiquing policies that are financially (or environmentally) unsustainable.

According to the regulation at 8 C.F.R. § 204.5(h)(3)(v), an alien's contributions must be not only original but of major significance. We must presume that the phrase "major significance" is not superfluous and, thus, that it has some meaning. While the petitioner is admired by his colleagues and collaborators for his knowledge and compilation of data regarding ECA environmental issues and municipal water projects, the fact his work has been published or presented is not sufficient to show that he has made original contributions of major significance in his field consistent with sustained national or international acclaim. For example, the record does not indicate the extent of the influence of the petitioner's work on other environmental economists, nor does it show that his field has somehow changed as a result of his work.

In this case, the letters of support submitted by the petitioner's professional contacts and their discussion of his work are not sufficient to meet this criterion. The opinions of experts in the field, while not without weight, cannot form the cornerstone of a successful extraordinary ability claim. CIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. See *Matter of Caron International*, 19 I&N Dec. 791, 795 (Commr. 1988). However, CIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; CIS may evaluate the content of those letters as to whether they support the alien's eligibility. See *id.* at 795-796. Thus, the content of the experts' statements and how they became aware of the petitioner's reputation are important considerations. Even

when written by independent experts, letters solicited by an alien in support of an immigration petition are of less weight than preexisting, independent evidence of original contributions of major significance that one would expect of an environmental economist who has sustained national or international acclaim. Without evidence showing that the petitioner's work has been unusually influential, highly acclaimed throughout his field, or has otherwise risen to the level of contributions of major significance, we cannot conclude that he meets this criterion.

*Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.*

The petitioner submitted evidence showing that he prepared several reports for the World Bank. The petitioner also submitted evidence of his authorship of articles in publications such as *Sensors and Actuators B* and *Global Water Intelligence*. A September 21, 2006 letter from [REDACTED], Publisher, *Global Water Intelligence* (a monthly newsletter), states: "[The petitioner] has worked as a contributor to *Global Water Intelligence* and its related market intelligence reports since 2004. *Global Water Intelligence* is the market leading source of business intelligence for the international water market."<sup>3</sup> The petitioner also submitted evidence showing that he researched and compiled a separate publication on behalf of *Global Water Intelligence* entitled *Water Market Europe: Opportunities in EU Accession, the Framework Directive & the CIS*. The record, however, includes no evidence (such as circulation statistics) showing that the preceding publications had significant national or international distribution. In this case, the petitioner has not submitted evidence establishing that his articles and reports were frequently cited, and that they appeared in major publications or media in a manner consistent with sustained national or international acclaim. As such, the petitioner has not established that he meets this criterion.

*Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.*

In order to establish that he performed a leading or critical role for an organization or establishment with a distinguished reputation, the petitioner must establish the nature of his role within the entire organization or establishment and the reputation of the organization or establishment.

The record adequately demonstrates that the World Bank is an organization with a distinguished reputation. The record, does not, however, include evidence showing that the petitioner's role as an Extended Term Consultant was leading or critical for the World Bank. There is no evidence demonstrating how the petitioner's role differentiated him from other consultants holding similar appointments, let alone more senior employees at the World Bank such as its executive leadership and senior economists. The documentation submitted by the petitioner does not establish that he was responsible for the World Bank's success or standing to a degree consistent with the meaning of "leading or critical role" and indicative of sustained national or international acclaim. As such, the petitioner has not established that he meets this criterion.

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<sup>3</sup> The record includes no independent evidence to support [REDACTED]'s self-serving assertion that his newsletter "is the market leading source . . . for the international water market."

*Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.*

The petitioner submitted a “Verification of Employment” letter from the World Bank reflecting that he earns a “Net Salary” of \$80,080. The petitioner also submitted a World Bank net salary chart for Extended Term Consultants reflecting four levels of compensation in U.S. Dollars:

	Minimum	Maximum
EC1	44,130	80,740
EC2	58,760	107,510
EC3	76,400	139,800
EC4	108,610	198,730

According to the preceding information, the petitioner’s net salary of \$80,800 is not significantly high in relation to the earnings of other World Bank consultants. Nevertheless, the plain language of this regulatory criterion requires the petitioner to submit evidence showing that he has commanded a high salary “in relation to others in the field.” In this instance, the petitioner has provided salary information that is limited to his immediate employer. The petitioner offers no basis for comparison showing that his compensation was significantly high in relation to others in his field. There is no indication that the petitioner has earned a level of compensation that places him among the highest paid environmental economists nationally or internationally.

In light of the above, the petitioner has not established that he meets this criterion.

In this case, the petitioner has failed to demonstrate his receipt of a major, internationally recognized award, or that he meets at least three of the criteria that must be satisfied to establish the sustained national or international acclaim necessary to qualify as an alien of extraordinary ability.

In an October 6, 2005 letter accompanying the petition, counsel cites the recommendation letters as comparable evidence pursuant to the regulation at 8 C.F.R. § 204.5(h)(4). These letters have already been addressed under the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(v). Further, the recommendation letters are not sufficient to demonstrate that the petitioner’s achievements as an environmental economist have garnered him sustained national or international acclaim at the very top of his field. Nevertheless, the regulation at 8 C.F.R. § 204.5(h)(4) allows for the submission of “comparable evidence,” but only if the ten criteria “do not readily apply to the beneficiary’s occupation.” The regulatory language precludes the consideration of comparable evidence in this case, as there is no indication that eligibility for visa preference in the petitioner’s occupation cannot be established by the ten criteria specified by the regulation at 8 C.F.R. § 204.5(h)(3). Where an alien is simply unable to meet three of these criteria, the plain language of the regulation at 8 C.F.R. § 204.5(h)(4) does not allow for the submission of comparable evidence.

Review of the record does not establish that the petitioner has distinguished himself to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field. The evidence is not persuasive that the petitioner’s achievements set him significantly above

almost all others in his field at the national or international level. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A)(i) of the Act and the petition may not be approved.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.