

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



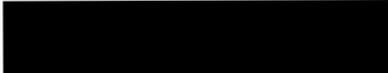
U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

B2



FILE: LIN 06 258 52231 Office: NEBRASKA SERVICE CENTER Date: **MAR 12 2009**

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was denied by the 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. 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. The director also determined the petitioner had not submitted clear evidence that he would continue to work in his area of expertise in the United States.

On appeal, counsel argues that the petitioner meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3) and that he will “continue to work in the area of his extraordinary ability.”

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.

U.S. Citizenship and Immigration Services (USCIS) 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 September 7, 2006, seeks to classify the petitioner as an alien with extraordinary ability in international development issues such as environmental protection and poverty alleviation. The petitioner holds a Master's degree in International Public Policy from Johns Hopkins University (2004). In October 2004, the petitioner was appointed as the Representative of the United Nations Environment Programme (UNEP) Office in Beijing.

On appeal, counsel states:

The petitioner began his career in the Chinese Ministry of Water Resources, and has since held positions at the World Bank and the United Nations. Over the course of his career, [the petitioner] has distinguished himself as one of the elite few at the top of the field of environmental protection and poverty alleviation. He . . . has served most recently as the United Nations Environment Programme Representative in Beijing, China, and as a key advisor at the World Bank.

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.<sup>1</sup>

*Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.*

The petitioner initially claimed receipt of a "World Bank President's Award for Excellence" in 2004 for his work on the Loess Plateau Watershed Rehabilitation Project. The petitioner submitted an abstract for a World Bank "Working Paper" entitled "the Loess Plateau Watershed Rehabilitation Project," but the paper does not identify the petitioner as a recipient of the aforementioned award, nor does it state that the success of the project was primarily attributable to him. The petitioner also submitted an article entitled "The secret of success of the World Bank Project: Focus on the Whole Progress." The English language translation accompanying this article was not certified by the translator as required by the regulation at 8 C.F.R. § 103.2(b)(3). The article describes the presentation ceremony for the World Bank President's Award for Excellence in 2004 at the World Bank headquarters in Washington, D.C. This article identifies the recipients as "[REDACTED]", the project manager, "[REDACTED]" the director of Department of Water Resource in the Ministry of

---

<sup>1</sup> The petitioner does not claim to meet or submit evidence relating to the criteria not discussed in this decision.

Water Resource,” and “[REDACTED] of Yellow River Water Resource Committee.” There is no evidence from the World Bank indicating that the petitioner received a “World Bank President’s Award for Excellence” in 2004 or that the award focused primarily on his work. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). A petition must be filed with any initial evidence required by the regulation. 8 C.F.R. § 103.2(b)(1). The nonexistence or other unavailability of primary evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2)(i). Further, it has not been established that the aforementioned award reflects national or international recognition for excellence in the field rather than institutional recognition for World Bank project participants.

The petitioner claims that he is a winner of the “2005 Chinese Celebrities Environment Protection Public Praises Contest.” The petitioner submitted material entitled “2005 Chinese Celebrities Environment Protection Public Praises List,” but the English language translation accompanying the material was not certified by the translator as required by the regulation at 8 C.F.R. § 103.2(b)(3). Further, the source of the document was not identified and several pages of the document were omitted.<sup>2</sup> The unreliable documentation submitted by the petitioner indicates that scores of individuals were similarly honored on the public praise list. The petitioner has not established that his selection for this extensive list is consistent with being in “that small percentage who have risen to the very top of the field of endeavor.” See 8 C.F.R. § 204.5(h)(2). Further, the plain language of the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(i) requires evidence of the petitioner’s receipt of “nationally or internationally recognized prizes or awards.” There is no evidence showing that the petitioner received a prize or award in this contest, or that his selection commanded national or international recognition. On appeal, the petitioner resubmits the same pages of unreliable and incomplete material. Counsel asserts that the contest organizers “announce the winners on media outlets,” but the specific media outlets are not identified and there is no evidence of the announcements aside from the deficient listing previously submitted. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner’s burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

The petitioner submitted evidence showing that he was among 250 “student delegates” selected to attend the Academy of Achievement’s 2004 annual International Summit in Chicago, Illinois. In response to the director’s request for evidence, the petitioner submitted an August 24, 2007 letter from [REDACTED], Director of Student Activities, Academy of Achievement, Washington, D.C., stating:

This is an all-expense paid weekend attended by 250 of the world’s most promising young scholars and graduate students from 40 countries as well as eminent leaders from the arts, sciences, business, and public service.

---

<sup>2</sup> The petitioner’s submission includes only pages 88, 92, and 95.

Each year, the 250 students include Rhodes, Marshall, Truman, and Gates-Cambridge Scholars; students from the Air Force, Navy and Army service academies; medical students from Harvard, Stanford, and Johns Hopkins; political science students from Paris, London, Moscow and the U.S.; and law and business students from Chicago, Harvard, MIT, and Princeton. [The petitioner] was nominated by [REDACTED], to represent the Paul H. Nitze School for Advanced International Studies, Johns Hopkins University, at the Summit.

The petitioner has not established that his selection by a faculty member of his alma mater to attend this event constitutes his receipt of a nationally or internationally recognized prize or award for excellence in his field. We cannot ignore that the petitioner attended as one of the 250 “promising young scholars and graduate students” rather than as one of the “eminent leaders from the arts, sciences, business, and public service.” The petitioner seeks a highly restrictive visa classification, intended for aliens already at the top of their respective fields, rather than for individuals progressing toward the top at some unspecified future time. *See* 8 C.F.R. § 204.5(h)(2). The preceding student honor offers no meaningful comparison between the petitioner and experienced professionals in the field who have long since completed their graduate studies. Further, the petitioner’s nomination by a faculty member at the [REDACTED] for Advanced International Studies reflects institutional recognition rather than national or international recognition.

In response to the director’s request for evidence, counsel states that the “Chinese Government granted [the petitioner] the prestigious award of ‘Peace Emissary’ as part of a week-long annual event sponsored by the United Nations called ‘International Week of Science and Peace.’” In support of this statement, the petitioner submitted an undated plaque stating: “UN INTERNATIONAL WEEK OF SCIENCE AND PEACE, PEACE MESSENGER.” The petitioner also submitted a photograph of him holding the plaque at a ceremony. This plaque does not bear the petitioner’s name and there is no supporting evidence showing that selection as a “Peace Messenger” is tantamount to receipt of a nationally or internationally recognized prize or award for excellence in the field. Further, there is no evidence showing that the petitioner had received this award as of the petition’s filing date. **A petitioner 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). On appeal, counsel discusses the criteria for selection as a Peace Messenger, but the record lacks evidence from the awarding governmental entity to support his assertions. As discussed, the unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. at 533, 534 n.2; *Matter of Laureano*, 19 I&N Dec. at 1, 3 n.2; *Matter of Ramirez-Sanchez*, 17 I&N Dec. at 503, 506.

The petitioner’s response to the director’s request for evidence included documentation showing that he received a Vernadski Award from the International Academy of Ecology and Life Protection Sciences (IAELPS) dated July 27, 2006. This documentation was not accompanied by a certified English language translation as required by the regulation at 8 C.F.R. § 103.2(b)(3). The petitioner also submitted a document entitled “Brief Introduction on International Academy of Ecology and Life Protection Sciences Associated with the Department of Public Information of the United Nations.” The source of this document was not identified. The document lists six “Tasks of IAELPS.” Item 6 states:

Confer title of honor upon governmental organs, social organizations, enterprise groups and excellent government leaders, scientists, social activists entrepreneurs who have made outstanding contributions towards promoting friendly exchanges and maintaining ecology and life security; set up prizes and bonus such as “Vernadski International Medal Grade One to Three” . . . .

The record does not indicate the grade level of the petitioner’s Vernadski award or specify its selection criteria. Further, there is no evidence demonstrating that the petitioner’s award commanded a significant level of recognition beyond the IAELPS. The plain language of the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(i) specifically requires that the petitioner’s awards be nationally or internationally *recognized* and it is his burden to establish every element of this criterion. For example, there is no evidence demonstrating that recipients of the award were announced in major media or in some other manner consistent with sustained national or international acclaim at the very top of his field.

In this case, the evidence submitted by the petitioner does not establish that the preceding honors constitute nationally or internationally recognized awards for excellence in his field of endeavor. Accordingly, the petitioner has not established that he meets this criterion.

*Documentation of the alien’s membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.*

In order to demonstrate that membership in an association meets this criterion, a petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, minimum education or experience, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion as such requirements do not constitute outstanding achievements. Further, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association’s overall reputation.

The petitioner submitted an August 11, 2006 letter inviting him to “take the position as the vice president of China International Institution of Multinational Corporation in order to further advance the relationships and cooperation between China and the United Nation [sic], international and non-government organizations.” The letter concludes by stating: “[W]e need your supports to make tributes to the economic development in China and World. It is hereby to invite you.” This invitation letter does not establish that the petitioner actually holds membership in the organization or the date of his admission. In response to the director’s request for evidence, the petitioner submitted information from the China International Institute of Multinational Corporations internet site stating: “Founded on January 1, 1993, China International Institute of Multinational Corporations (CIIMC) is a non-governmental organization directly supervised by the Ministry of Commerce and is specially engaged in the work of multinational corporations in China.” The petitioner also submitted a copy of the CIIMC’s constitution. Article 21 of the constitution states:

The candidates conforming to the qualifications of chief vice-president and executive vice-presidents (legal representative) and vice-presidents shall be elected through vote and reported to the Ministry of Civil Affairs for record. Chief vice-president, executive vice-president and vice-presidents shall meet the following qualifications:

1. They should adhere to the Party's line, principles and policies, and be of good political quality;
2. They should have rather great influence and enjoy good reputation both at home and abroad;
3. They should have assumed or have been assuming leading positions at above directorial levels;
4. They enjoy good health, and can go in for normal work;
5. They have no criminal record;
6. They have full civil behavior ability;
7. The highest age for assuming the position is no more than 70.

We cannot conclude that the preceding requirements are tantamount to outstanding achievements. Further, there is no evidence showing that the voters who elect individuals for the preceding positions are recognized national or international experts in their disciplines or fields as required by the plain language of 8 C.F.R. § 204.5(h)(3)(ii). Nevertheless, there is no evidence showing the petitioner's date of appointment as vice-president of the CIIMC (such as documentation showing his election was "reported to the Ministry of Civil Affairs").

The petitioner submitted documentation showing that he is a member of the board of directors of *China Green Pictorial*, that he was appointed as a Research Fellow at the Economic Development Research Center of Wuhan University, that he was conferred the title of "Distinguished Visiting Professor of Business" by the Shanghai Institute of Foreign Trade, and that he was appointed as an advisor to the Guangrou County local government. There is no evidence (such as bylaws or official admission standards) demonstrating the specific membership requirements for these organizations.

In this case, the petitioner has not established that he holds membership in associations that require outstanding achievements of their members, as judged by recognized national or international experts in his field or an allied one. Accordingly, the petitioner has not established that he meets this criterion.

*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 general, 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. An alien would not earn acclaim at the national level from a local publication or from a publication printed in a language that the vast majority of the country's population cannot comprehend. 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>3</sup>

The petitioner submitted an October 27, 2005 article about him in *China Daily*. In response to the director's request for evidence, the petitioner submitted information printed from *China Daily's* internet site stating: "*China Daily*, established in 1981, is the only national English-language newspaper in China. The average daily circulation is more than 200,000, one-third of which is abroad in more than 150 countries and regions." The self-serving nature of the information from *China Daily's* internet site is not sufficient to demonstrate that the newspaper qualifies as a form of "major" media in China or in any other country. Further, media coverage in a publication read by only an extremely small segment of a country's total population is not evidence of national acclaim.

The petitioner submitted a June 5, 2005 interview of him in [REDACTED] and a December 30, 2005 interview of him in [REDACTED]. There is no evidence (such as independent circulation statistics) showing that [REDACTED] qualifies as a form of major media. While [REDACTED] qualifies as a form of major media, the record does not reflect the sectional placement of the petitioner's article in the publication. Further, the plain language of this regulatory criterion requires that the published material be "about the alien." The primary subject of the preceding interviews was the UNEP and its initiatives rather than the petitioner and his individual achievements.

In light of the above, 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 petitioner submitted a July 2006 "Invitation Letter" requesting that he chair the judging panel at the 1<sup>st</sup> Annual International Environment Protection Documentary Exhibition Festival from September 1 – 6, 2006. The letter concludes by stating: "It is hereby to invite you to act as member of the judge panel as well as the chairman of the judge panel. . . . Your attendance is highly appreciated."<sup>4</sup> The petitioner also submitted an October 10, 2005 letter entitled "Invitation on Acting as the Judge of Green China Annual Personage Election." This invitation letter requests that the petitioner complete an attached registration acknowledgment which was left blank. The plain language of this regulatory criterion requires "[e]vidence of the alien's participation . . . as a judge of the work of others in the same or an allied field of specification." The documentation submitted by the petitioner for this regulatory criterion does not establish his actual participation as a judge for either

---

<sup>3</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.

<sup>4</sup> The petitioner's Form I-140 petition was signed by him on September 1, 2006 and mailed on September 2, 2006. Thus, his initial evidence does not establish his participation or attendance at this six-day event.

of the preceding events. An invitation does not constitute evidence of “participation.” Without evidence showing that the petitioner participated in the preceding events in a manner consistent with sustained national or international acclaim at the very top level of his field, we cannot conclude 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 initially submitted six recommendation letters in support of his petition. These letters describe the petitioner’s academic qualifications, professional experience, activities in the field, and the general importance of his work, but they fail to establish that specific achievements attributable to him constitute original contributions of major significance in environmental protection and poverty alleviation.

[REDACTED], Institute for Multi-Track Diplomacy, states:

With his professional experience as the Advisor to the Executive Director of the World Bank, [the petitioner] distinguishes himself in the international arena through his strong advocacy for equality, freedom, rights for individuals who face poverty and oppression, and the spread of democratic values throughout the world.

[REDACTED] Adjunct Faculty, Johns Hopkins School for Advanced International Studies (SAIS), states:

[The petitioner] is by far the most outstanding international student who has studied with me at SAIS, and this is a high distinction, given the superb caliber of the SAIS student body. He is also an outstanding citizen of the world, helping to bridge understanding between the developed and developing world, one of the most urgently needed talents our world needs.

[REDACTED], Georgetown University, Walsh School of Foreign Service, states:

During 2004, [the petitioner] was my student in a class on international business strategy at the Johns Hopkins University School for Advanced International Studies in Washington, D.C.

[The petitioner] brings a rare knowledge of his native country, The People’s Republic of Chin, and its governmental and other institutions to the needs of a variety of U.S. parties – businesses industry groups, financial institutions, and consultants.

[REDACTED], a Fellow at the Public Relations Society of America who also holds Accreditation in Public Relations designation, states:

It was my pleasure to meet [the petitioner] several years ago on the occasion of an International Symposium at the World Bank. He is truly and impressive young man whose unique experience and knowledge ensures him the ability to be a significant contributor to the United States economy as well as our country's international presence.

\* \* \*

His extensive managerial experience and demonstrated leadership capacity have made him a strong and effective advocate for equality and individual freedom, empowering the poor and vulnerable, and enhancing the voice of democracy in the international arena.

\_\_\_\_\_ founder of ANARI Inc., states that the petitioner was among the "most capable advisors" he encountered at the World Bank. Mr. \_\_\_\_\_ further states: "[The petitioner's] experience and knowledge of the developing world (inclusively Africa, Middle East, and Asia), position him well to cultivate understanding between North and South, rich and poor; which should prove valuable to the betterment of U.S.-international relations."

Senior Pastor, Cherrydale Baptist Church, Arlington, Virginia, states that the petitioner "has a brilliant mind and an outstanding education."

The preceding the letters of recommendation submitted by the petitioner do not specify exactly what his original contributions in environmental protection and poverty alleviation have been, nor do they provide a substantive explanation indicating how any such contributions were of major significance in his field.

In response to the director's request for evidence, the petitioner submitted an August 24, 2007 letter of support from \_\_\_\_\_, Vice President for Asia Pacific, Rare, stating:

I have known and worked with [the petitioner] for three years. We were peers and colleagues at the United Nations (UN) and collaborated closely to initiate several important initiatives to promote the sustainable development of China and conserve the global environment.

\* \* \*

[The petitioner] worked with me and took the lead in developing several large and complex projects including the following:

1) China Biodiversity Partnership Framework Project.

This is a \$20 million multi-agency project. It is the first project of its kind in China to be financed by Global Environment Facility (GEF), primarily funded from the United States, implemented by UN Development Program, UN Environment Program, and the World Bank. [The petitioner] helped to design the project and also sat on the Steering Committee among 10 international experts, guiding the project design, planning and implementation, exploring innovative ways to protect world-endangered species and

globally significant ecosystems. [The petitioner] played the key roles of helping to conceive the project priorities, facilitating discussion among the UN agencies and other partners, an [sic] negotiating with the various Chinese government ministries. I am quite sure that without the leadership of [the petitioner] the project would not have been possible. This project will be the umbrella framework for foreign assistance to China to conserve that country's biodiversity. . . .

2) Conservation and Sustainable Use of Biodiversity in the Headwaters of the Huaihe River Basin.

This is a \$4 million project also to be financed by the Global Environment Facility, for which the United States Government is the largest supporter. [The petitioner] designed this project and proposed to implement an innovative model of ecosystem conservation to balance ecosystem conservation and livelihood development. He also successfully completed the complex negotiations with the various local and national government agencies involved for the project to be able to move forward. In short, he is fully responsible for the success of this initiative.

\* \* \*

This project will help the Chinese government, using US-foreign aid, to reduce these dangers and conserve biodiversity, benefiting not only China but the world.

3) Linking tourism to biodiversity conservation in the Taishan Mountain Landscape.

This is a \$4 million project to demonstrate how mass tourism in China can be compatible with conservation of the environment. . . . [The petitioner] led the effort to develop eco-friendly tourism, and design this project into a world model. He is single-handedly responsible for this effort.

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 has performed admirably as the UNEP's Representative in Beijing for the above ongoing projects, there is no supporting evidence showing the successful completion of these projects and their resulting ecological and environmental benefits. Nor is there supporting evidence showing that the work specifically attributable to the petitioner has had major significance in the field. For example, the record does not indicate the extent of the petitioner's influence on other United Nations programs, nor does it show that the field has somehow changed as a result of his work.

The petitioner's response to the director's request for evidence also included a copy of the "United Nations Development Assistance Framework for the People's Republic of China (2006-2010)" planning document. The petitioner's signature appears with those of twenty others who helped prepare the document. This planning document outlines future development assistance initiatives for the United Nations in China. There is no evidence showing that the strategies developed by the petitioner have achieved significant success or that they are otherwise viewed throughout his field as

original contributions of major significance. Nevertheless, the petitioner's preparation of a United Nations report is far more relevant 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, USCIS 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 further address the petitioner's authorship and the attention it has garnered under the next criterion.

In this case, the letters of support are all from those who have instructed or worked with the petitioner. While such letters are important in providing details about the petitioner's role in various projects, they cannot by themselves establish that he has made original contributions of major significance in his field. The opinions of experts in the field, while not without weight, cannot form the cornerstone of a successful extraordinary ability claim. USCIS 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, USCIS 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; USCIS 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 individual 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 of his authorship of material for World Bank and United Nations reports and for various conferences and forums. There is no evidence showing that such works constitute "scholarly articles in the field" or that they were published in professional or major trade publications or some other form of major media. The director concluded that there was no evidence showing that the material authored by the petitioner has significantly impacted his field or has otherwise garnered him recognition consistent with national or international acclaim. Counsel does not challenge this conclusion on appeal. Upon review, we find the director properly considered the evidence submitted, thoroughly addressed counsel's arguments and appropriately addressed the evidence and arguments in his decision. Accordingly, we concur with the director's finding that the petitioner does not meet this criterion.

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

The petitioner submitted evidence showing that he served as the Representative of the UNEP Office in Beijing and as an Advisor to the Chinese Executive Director, World Bank Board of Directors. On appeal, counsel argues that the petitioner “performed in a leading and critical role for two internationally recognized organizations, the United Nations and the World Bank.” At issue for this criterion is the position the petitioner was selected to fill. In other words, the position must be of such significance that the alien’s selection to fill the position, in and of itself, is indicative of or consistent with national or international acclaim. We cannot ignore that the record lacks letters of support from the top executive leadership at these organizations discussing the importance of the petitioner’s role.

With regard to the petitioner’s role for the United Nations, the petitioner submitted a July 22, 2004 letter from the Human Resources Management Service offering him “a one year Intermediate-term appointment as UNEP/GEF Coordinator for China.” The petitioner has not established that this term appointment was indicative of a leading or critical role for the United Nations.

Regarding the petitioner’s role as an Advisor to the Chinese Executive Director at the World Bank, the petitioner’s response to the director’s request for evidence included an August 28, 2007 letter from [REDACTED] stating:

In this position, [the petitioner] served as staff of the Board of Directors of the largest and most influential development bank in the world, and was a critical element of making policy – both on behalf of his government and for the World Bank. . . . As Advisor to the Chinese Executive Director, [the petitioner] had the lead in environment and sustainable development, among other issues.

According to her resume, [REDACTED] last worked for the World Bank in the late 1970s as a “Research/Evaluation Consultant.” As [REDACTED] did not work with or supervise the petitioner at the World Bank, we cannot assign significant weight to her observations. With regard to the petitioner’s positions for the World Bank and the United Nations, the record does not establish that his roles were leading or critical to the organizations. There is no evidence demonstrating how the petitioner’s role differentiated him from the other staff at the World Bank and the United Nations, let alone their more senior leadership (such as directors). The documentation submitted by the petitioner does not establish that he was responsible for his employers’ success or standing to a degree consistent with the meaning of “leading or critical role” and indicative of sustained national or international acclaim.

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

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

In response to the director’s request for evidence, the petitioner submitted a July 22, 2004 letter from the Human Resources Management Service reflecting that he was offered a base salary of \$113,168 to work for the UNEP. 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.”

The petitioner offers no basis for comparison showing that his compensation was significantly high in relation to others in his field. Accordingly, the petitioner has not established that he meets this criterion.

In this case, we concur with the director's finding that the petitioner has failed to demonstrate receipt of a major, internationally recognized award, or that he meets at least three of the criteria at 8 C.F.R. § 204.5(h)(3). The conclusion we reach by considering the evidence to meet each criterion separately is consistent with a review of the evidence in the aggregate. Even in the aggregate, the evidence does not distinguish the petitioner as one of the small percentage who has risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2).

The director also found that the petitioner had not submitted clear evidence that he would continue to work in his area of expertise in the United States. The regulation at 8 C.F.R. § 204.5(h)(5) requires "clear evidence that the alien is coming to the United States to continue work in the area of expertise. Such evidence may include letter(s) from prospective employer(s), evidence of prearranged commitments such as contracts, or a statement from the beneficiary detailing plans on how he or she intends to continue his or her work in the United States." The petitioner initially submitted a statement addressing his career plans. In response to the director's request for evidence, the petitioner submitted an August 1, 2007 letter from [REDACTED] indicating that Rare seeks his consultancy services and a March 14, 2007 letter from [REDACTED] Chairman of Eco Expo, expressing interest in employing the petitioner. With regard to the petitioner's prospective employment with Eco Expo, that company is in forfeit status and is not authorized to conduct business.<sup>5</sup> Accordingly, while it now appears that the petitioner could not work for Eco Expo, the other evidence is sufficient to establish that he intends to continue working in his area of expertise in the United States. Therefore, we withdraw the director's finding on this issue.

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) 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.

---

<sup>5</sup> See [http://kepler.ss.ca.gov/corpdata/ShowAllList?QueryCorpNumber=\[REDACTED\]](http://kepler.ss.ca.gov/corpdata/ShowAllList?QueryCorpNumber=[REDACTED]) and [http://www.sos.ca.gov/business/corp/corp\\_help.htm](http://www.sos.ca.gov/business/corp/corp_help.htm), accessed on March 9, 2009, copies incorporated into the record of proceeding.