U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

(b)(6)

DATE: MAR 13 2013 OFFICE: TEXAS SERVICE CENTER FILE:

IN RE: Petitioner:
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Skilled Worker or Professional Pursuant to Section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The petitioner appealed the decision to the Administrative Appeals Office (AAO). The appeal will be sustained and the petition will be approved.

The petitioner describes itself as a cosmetics manufacturer. It seeks to employ the beneficiary permanently in the United States as a chemist. The petitioner requests classification of the beneficiary as a professional or skilled worker pursuant to section 203(b)(3)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A).[1]

The petition is accompanied by an ETA Form 9089, Application for Permanent Employment Certification (labor certification), certified by the U.S. Department of Labor (DOL). The priority date of the petition is October 30, 2008.[2]

The director's decision denying the petition concludes that the beneficiary did not possess a U.S. bachelor's degree or foreign equivalent as required by the terms of the labor certification.

The record shows that the appeal is properly filed and makes a specific allegation of error in law or fact. The procedural history in this case is documented by the record and incorporated into the decision. Further elaboration of the procedural history will be made only as necessary.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The AAO considers all pertinent evidence in the record, including new evidence properly submitted upon appeal.[3]

In order for the petition to be approved, the beneficiary must have all the education, training, and experience specified on the labor certification as of the petition's priority date. *See Matter of Wing's Tea House*, 16 I&N 158 (Act. Reg. Comm. 1977).[4]

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[1] Section 203(b)(3)(A)(i) of the Act, 8 U.S.C. § 1153(b)(3)(A)(i), provides for the granting of preference classification to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing skilled labor (requiring at least two years training or experience), not of a temporary nature, for which qualified workers are not available in the United States. Section 203(b)(3)(A)(ii) of the Act, 8 U.S.C. § 1153(b)(3)(A)(ii), also provides for the granting of preference classification to qualified immigrants who hold baccalaureate degrees and are members of the professions.

[2] The priority date is the date the DOL accepted the labor certification for processing. *See* 8 C.F.R. § 204.5(d).

[3] The submission of additional evidence on appeal is allowed by the instructions to Form I-290B, which are incorporated into the regulations by 8 C.F.R. § 103.2(a)(1). The record in the instant case provides no reason to preclude consideration of any of the documents newly submitted on appeal. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988).

The labor certification states that the offered position requires a bachelor's degree in chemistry and 24 months of experience in the job offered.

The record contains a copy of the diploma and transcripts for the beneficiary's three-year Bachelor of Science in Chemistry from India. The record also contains a copy of the diploma and transcripts for the beneficiary's two-year Postgraduate Diploma in Chemical Technology from India. is a recognized university by India's University Grants Commission (UGC).[5] was formerly affiliated with the is approved by the All India Council for Technical Education (AICTE),[6] and has been granted status as an autonomous college by UGC.

The director's decision denying the petition concludes that the beneficiary's three-year Bachelor of Science degree and two-year postgraduate diploma from India could not be accepted as a foreign equivalent degree to a U.S. bachelor's degree in chemistry because the beneficiary does not possess a single degree that is equivalent of a U.S. baccalaureate degree.

The AAO has reviewed the Electronic Database for Global Education (EDGE) created by the American Association of Collegiate Registrars and Admissions Officers (AACRAO). According to its website, www.aacrao.org, AACRAO is "a nonprofit, voluntary, professional association of more than 11,000 higher education admissions and registration professionals who represent more than 2,600 institutions and agencies in the United States and in over 40 countries around the world." http://www.aacrao.org/About-AACRAO.aspx. Its mission "is to serve and advance higher education by providing leadership in academic and enrollment services." *Id.* According to the registration page for EDGE, EDGE is "a web-based resource for the evaluation of foreign educational credentials." http://edge.aacrao.org/info.php. Authors for EDGE are not merely expressing their personal opinions. Rather, they must work with a publication consultant and a Council Liaison with

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[4] In addition, for classification as a professional, the regulation at 8 C.F.R. § 204.5(l)(3)(ii)(C) states, in part:

> [T]he petition must be accompanied by evidence that the alien holds a United States baccalaureate degree or a foreign equivalent degree and by evidence that the alien is a member of the professions. Evidence of a baccalaureate degree shall be in the form of an official college or university record showing the date the baccalaureate degree was awarded and the area of concentration of study.

[5] The UGC is the only grant-giving agency in India and has been vested with the responsibility of determining and maintaining standards in institutions of higher education. *See* http://www.ugc.ac.in/page/Mandate.aspx.

[6] AICTE is responsible for the planning and development of technical education in India and accredits certain postgraduate programs at Indian educational institutions. *See* http://www.aicte-india.org.

AACRAO's National Council on the Evaluation of Foreign Educational Credentials.[7] If placement recommendations are included, the Council Liaison works with the author to give feedback and the publication is subject to final review by the entire Council. *Id.* USCIS considers EDGE to be a reliable, peer-reviewed source of information about foreign credentials equivalencies.[8]

According to EDGE, a three-year Bachelor of Science degree from India represents attainment of a level of education comparable to three years of university study in the United States. In addition, EDGE states that the postgraduate diploma from India following a three-year Bachelor of Science degree represents attainment of a level of education comparable to a U.S. bachelor's degree.

Therefore, the beneficiary's three-year Bachelor of Science in Chemistry followed by his Postgraduate Diploma in Chemical Technology is equivalent to a bachelor's degree from an accredited college or university in the United States.

The instant case does not involve a combination of two lesser degrees. The two-year postgraduate diploma is sequential to and builds upon the three-year bachelor's degree. This is analogous to the situation in the United States where a student obtains a two-year associate's degree followed by a bachelor's degree awarded after two years of additional study at an accredited college or university. The final degree is still a full four-year U.S. bachelor's degree. Conversely, if the beneficiary had possessed multiple three-year bachelor's degrees, any claimed resulting equivalency would have been based on a combination of multiple lesser degrees, none of which would have been the single foreign equivalent of a U.S. bachelor's degree.

The beneficiary possesses the foreign equivalent of a U.S. bachelor's degree. Therefore, it is concluded that the beneficiary possess the required education for the offered position as set forth on the labor certification and for the requested preference classification. In view of the foregoing, the

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[7] *See An Author's Guide to Creating AACRAO International Publications* available at http://www.aacrao.org/Libraries/Publications_Documents/GUIDE_TO_CREATING_INTERNATIONAL_PUBLICATIONS_1.sflb.ashx.

[8] In *Confluence Intern., Inc. v. Holder,* 2009 WL 825793 (D.Minn. March 27, 2009), the court determined that the AAO provided a rational explanation for its reliance on information provided by AACRAO to support its decision. In *Tisco Group, Inc. v. Napolitano*, 2010 WL 3464314 (E.D.Mich. August 30, 2010), the court found that USCIS had properly weighed the evaluations submitted and the information obtained from EDGE to conclude that the alien's three-year foreign "baccalaureate" and foreign "Master's" degree were only comparable to a U.S. bachelor's degree. In *Sunshine Rehab Services, Inc.* 2010 WL 3325442 (E.D.Mich. August 20, 2010), the court upheld a USCIS determination that the alien's three-year bachelor's degree was not a foreign equivalent degree to a U.S. bachelor's degree. Specifically, the court concluded that USCIS was entitled to prefer the information in EDGE and did not abuse its discretion in reaching its conclusion. The court also noted that the labor certification itself required a degree and did not allow for the combination of education and experience.

beneficiary qualifies for classification as a professional under section 203(b)(3)(A)(ii) of the Act and the decision of the director will be withdrawn.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has met that burden.

ORDER: The appeal is sustained, the petition is approved.