



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF G-I-T-, LLC

DATE: JULY 18, 2016

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a company engaged in the sale, import, export, and distribution of baby products, seeks to temporarily employ the Beneficiary as the operations manager of its new office under the L-1B nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality Act (the Act) § 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The L-1B classification allows a corporation or other legal entity (including its affiliate or subsidiary) to transfer a qualifying foreign employee with “specialized knowledge” to work temporarily in the United States.

The Director, California Service Center, denied the petition. The Director concluded that the Petitioner did not establish that the Beneficiary possesses specialized knowledge or that she has been employed abroad and will be employed in the United States in a specialized knowledge capacity.

The matter is now before us on appeal. In its appeal, the Petitioner submits additional evidence and contends that the Director did not take into account “substantial relevant evidence” supporting that the Beneficiary holds specialized knowledge and has been employed abroad and will be employed in the United States in a specialized knowledge capacity.

Upon *de novo* review, we will dismiss the appeal.

**I. LEGAL FRAMEWORK**

To establish eligibility for the L-1 nonimmigrant visa classification, a qualifying organization must have employed the Beneficiary in a managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year within three years preceding the Beneficiary’s application for admission into the United States. Section 101(a)(15)(L) of the Act. In addition, the Beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity. *Id.*

If the beneficiary will be serving the United States employer in a managerial or executive capacity, a qualified beneficiary may be classified as an L-1A nonimmigrant alien. If a qualified beneficiary will be rendering services in a capacity that involves “specialized knowledge,” the beneficiary may be classified as an L-1B nonimmigrant alien. *Id.*

Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B), provides the statutory definition of specialized knowledge:

For purposes of section 101(a)(15)(L), an alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company.

Furthermore, the regulation at 8 C.F.R. § 214.2(l)(1)(ii)(D) defines specialized knowledge as:

[S]pecial knowledge possessed by an individual of the petitioning organization's product, service, research, equipment, techniques, management or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization's processes and procedures.

The regulation at 8 C.F.R. § 214.2(l)(3) states that an individual petition filed on Form I-129, Petition for a Nonimmigrant Worker, shall be accompanied by:

- (i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section.
- (ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.
- (iii) Evidence that the alien has at least one continuous year of full-time employment abroad with a qualifying organization within the three years preceding the filing of the petition.
- (iv) Evidence that the alien's prior year of employment abroad was in a position that was managerial, executive or involved specialized knowledge and that the alien's prior education, training, and employment qualifies him/her to perform the intended services in the United States; however, the work in the United States need not be the same work which the alien performed abroad.

The regulation at 8 C.F.R. § 214.2(l)(3)(vi) further provides that if the petition indicates that the beneficiary is coming to the United States in a specialized knowledge capacity to open or to be employed in a new office in the United States, the petitioner shall submit evidence that:

- (A) Sufficient physical premises to house the new office have been secured;
- (B) The business entity in the United States is or will be a qualifying

(b)(6)

*Matter of G-I-T-, LLC*

organization as defined in paragraph (l)(1)(ii)(G) of this section; and

- (C) The petitioner has the financial ability to remunerate the beneficiary and to commence doing business in the United States.

## II. SPECIALIZED KNOWLEDGE

The sole issue to be addressed is whether the Petitioner established that the Beneficiary possesses specialized knowledge and whether she has been employed abroad and will be employed in the United States in a specialized knowledge capacity.

### A. Evidence of Record

The Petitioner filed the Form I-129 petition on July 14, 2015. The Petitioner states that it is an affiliate of the Beneficiary's foreign employer which is "in the business of the import and export of goods and technology equipment; hardware and household electrical appliances; chemical products . . . ; wholesale and retail of cosmetics; and the provision of business consultation services." The Petitioner indicated that the foreign employer "has developed a stable consumer group for its Japanese manufactured maternal care and childcare products." The Petitioner explained that it would be responsible "for finding a market for Chinese products, taking purchase orders and conveying this information to [the foreign employer]" and for the "marketing and distribution" of the foreign employer's products to new customers in the United States.

The Petitioner stated that the Beneficiary is one of the founding members of the foreign employer and "uniquely qualified to perform the specialized duties required to set up the new office and establish business in the United States." The Petitioner indicated that the Beneficiary "started her career in the field of Customs and trade when she was awarded a "Certificate for Customs Declarant" by the General Administration of Customs in China in 1989."<sup>1</sup> The Petitioner explained that the Beneficiary worked in the following positions during her career with unrelated companies in China where she gained twelve years of experience in the field of imports and exports:

- Customs broker and "Customs Declarant" with [REDACTED] from December 1999 to February 2003;
- Manager of the marine division with [REDACTED] from April 2003 to July 2006; and
- General Manager with [REDACTED] from August 2006 to March 2012.

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<sup>1</sup> The Petitioner submitted a certificate, issued on September 1, 1999, stating that the Beneficiary had taken and passed all examinations required by the "National Unified Examination of Customs Certificate." The certificate reflected that it expired in September 2002. There is no evidence that she received a similar certificate in 1989 as stated by the Petitioner. There is also no evidence that the Beneficiary renewed her qualification upon the expiration of the submitted certificate.

The Petitioner indicated that the Beneficiary later established the foreign employer in March 2012 and has been performing the following duties as its general manager (bullets added):

- Formulating and directing the implementation of the business policies and objectives of the company
- Directing and overseeing the management of the company's operations in China and abroad
- Directing the development of the Company's overall business structure and goals, including marketing strategy
- Directing the long-term and mid-term strategic plans, market development, [and] development of client base

The Petitioner noted that the foreign employer "has several sales contracts with US customers" to whom it ships goods on a regular basis. The Petitioner explained that it was "imperative" to transfer the Beneficiary to the United States due to her "years of experience[...]within the company." The Petitioner stated that the Beneficiary would be tasked with "directing the business relationships with our US customers, the establishment and direction of the US Company's overall business operations, defining the US Company's policies and goals, methodology to implement such policies, directing the marketing strategy to ensure that our products and services are properly developed and marketed in the US market, and overseeing the management of all US personnel." The Petitioner indicated that the Beneficiary "has unique and highly specialized knowledge in all areas relating to Customs, Imports and Exports rules relating to China and Internationally." The Petitioner explained that the Beneficiary "has first hand knowledge of the procedures and methods utilized to carry out the business of [the foreign employer]."

Further, the Petitioner stated that the Beneficiary would be responsible for "business development" in the United States, the "development of the client base," "the planning and logistics involved in the sales and marketing/import and export," reviewing "strategic market analysis and market requirements," "defining policy and setting guidelines," overseeing the vice president, "management of operations" including the "development of new products," the "establishment of training systems," and "staff discipline and termination."

The Petitioner submitted the foreign entity's organizational chart reflecting that the Beneficiary reported to a "legal representative" at the highest level of the organization, and that she supervised an "import operation department," an "export operation department," a "marketing department," and a "financial department." The chart indicated that each of these departments had a department manager and multiple "office clerks," each identified by name.

The Director later issued a request for evidence (RFE) requesting that the Petitioner clarify whether the Beneficiary would act in a managerial, executive, or specialized knowledge role in the United States, including submitting a more detailed description of her duties abroad. The Director asked the Petitioner to provide a letter from the Beneficiary's supervisor describing her training and experience with the company abroad, the products or processes in which she holds specialized

knowledge, the minimum time required to obtain the Beneficiary's level of knowledge, whether others hold the knowledge of the Beneficiary in the organization, how the Beneficiary would contribute to the Petitioner, and how her knowledge can only be gained through prior experience with the organization. In addition, the Director requested that the foreign employer indicate the total number of employees holding the Beneficiary's same level of knowledge abroad, how her knowledge is set apart from others working in similar positions in the company and the industry, any training courses she completed, and whether the Beneficiary's knowledge is proprietary.

Further, the Director asked the Petitioner to provide a detailed description of the Beneficiary's proposed duties in the United States, including the products and processes in which she holds specialized knowledge and the minimum time required to gain this knowledge. The Director further requested that the Petitioner submit a proposed organizational chart, along with the names and job titles of the Beneficiary's projected colleagues in the United States.

In response, the Petitioner stated that the Beneficiary "is very well qualified, experienced and educated in the area of Customs Brokerage and Import/Export requirements" and that she holds first-hand knowledge of the "trading policies and procedures" of the company and its "biggest trading products and their markets." The Petitioner indicated that the Beneficiary is "proficient" in Chinese customs law and regulations, including ensuring "that the company complies with the policies and rules of the *General Administration of Customs* [(GACC)] in China where it relates to the payment of customs duties, excise duties and other indirect taxes." The Petitioner explained that the Beneficiary holds advanced knowledge of "the products being traded by the [foreign employer]" and their international markets. The Petitioner stated that the Beneficiary "is familiar with the rules and regulations of the *Chinese Food and Drug Administration*." The Petitioner indicated that the Beneficiary "ensures that all documentation is prepared and compiled for discharge of cargo" and "supervises the filing of papers with the GACC and arranges for payment of customs duties." The Petitioner explained that the Beneficiary "is required to be knowledgeable of customs duty to be imposed on imports and exports," both in China and many other countries to and from which the company imports and exports goods. The Petitioner further described the Beneficiary's qualifications and knowledge as follows:

[The Beneficiary's] record and business acumen have been proved through the success of [the foreign employer], it was for this reason, her substantial experience, specialized knowledge in the field of Customs, International trade and Import/Export of goods and markets, her professional qualifications, and her intimate knowledge of the Company's business services, the plan to set up a presence which was her idea, that qualifies her for the specialized knowledge position at [the Petitioner] in the United States.

In addition, the Petitioner stated that the Beneficiary devoted her time to the following duties abroad:

- 20% managing “strategic development,” including “formulating and directing the implementation of business policies and objectives” and overseeing the management of the business and trade operations across the world;
- 30% overseeing the “Import Department Manager” and the department’s two other employees, including carrying “out the duties of the imports of the Company,” “annual importation plans” and “regulations and management rules,” and developing “business strategies with respect to imports”;
- 30% supervising the “Export Department Manager” and this manager’s two subordinate employees, including monitoring “the exports of the company” and ensuring “that all customs and tax laws are complied with”;
- 10% overseeing the “Export Department Manager” and this manager’s subordinate employee; and
- 10% directing the “Marketing Department Manager” and this manager’s two subordinate employees, including “maintaining and developing existing and new customers bases” and “developing effective and constructive plans to challenges and obstacles in Import and Export activity and procedure.”

Further, with respect to the Beneficiary’s proposed duties in the United States, the Petitioner indicated that she would perform the following duties:

- 30% of her time on “US development in the area of imports and exports,” including applying her specialized knowledge of the foreign employer’s business “to set up and carry out the business of [the Petitioner].” The Petitioner stated that the Beneficiary will be an “invaluable asset” in “the development of the new business,” specifically, “strategic long and short term planning,” its “trading operations,” complying with “rules and regulations of both the importing and exporting countries,” and the elimination of “unreasonable fees and ancillary fees.”
- 25% of her time on “strategic planning duties in the Export/Import business of [the Petitioner],” namely, consulting “with other management of the foreign manufacturing company in planning the logistics” and reviewing “strategic market analysis and market requirements” for its products.
- 15% of her time to “marketing and public relations duties,” including “utilizing prior knowledge and experience of trading with specific countries and goods,” “developing effective and constructive solutions to challenges and obstacles in trade activity and procedures,” “defining policy and setting guidelines” and overseeing the vice president.
- 25% of her time on “management of operations,” described as involving “reliability and correct operations,” developing “internal technology infrastructure,” and training “herself on US Customs [and] Border Patrol requirements.”
- 5% of her time on “staff requirements,” such as “training systems” and other personnel issues.

*Matter of G-I-T-, LLC*

The Petitioner submitted a letter from one of the Beneficiary's former employers which described the duties she performed in relation to market development, international logistics, and customs during her six-year tenure with the company. The Petitioner also provided several import and export documents in China reflecting stamps it asserts were made by the Beneficiary as a "Customs Declarant."

Finally, the Petitioner submitted an expert opinion from [REDACTED] an associate dean at the [REDACTED] stating that the Beneficiary's "at least six years of specialized training and work experience in International Trade" are "commensurate with baccalaureate-level training in International Trade."

In denying the petition, the Director concluded that the Beneficiary's duties were similar to a "Logistician" or a similar occupation working in the international logistics field. The Director stated that the Petitioner had provided no further clarification as to the Beneficiary's duties in response to the RFE. The Director reasoned that the Beneficiary's customs certificate indicating only a test of basic knowledge common in the field of international logistics. The Director stated that the Petitioner did not articulate how the Beneficiary's knowledge was typically gained in the organization or how her duties involved specialized knowledge. The Director concluded that the evidence did not demonstrate that the policies and procedures of the organization were different from those applied by any operations manager in the industry. In addition, the Director found that the evidence did not establish that the Beneficiary was employed abroad in a managerial or executive capacity.<sup>2</sup>

In its appeal, the Petitioner asserts that the Director did not take into account "substantial relevant evidence." The Petitioner points to the Beneficiary's "prestigious" customs brokerage license issued in China and her fifteen years of experience with importing and exporting. The Petitioner states that the Beneficiary holds specialized knowledge of Chinese customs regulations and markets, specifically knowledge of the baby products market. The Petitioner contends that the Beneficiary is more aptly classified as an "International Customs Broker," rather than a logistician, and asserts that her knowledge is significantly different from similarly placed workers in the industry. The Petitioner states that the Director merely speculated when she concluded that the Beneficiary's knowledge is merely common and points to the Beneficiary's asserted knowledge of Chinese rules and regulations, the Chinese Food and Drug Administration, import and export documentation, and the laws and taxes of various countries. The Petitioner compares the current matter to an example of specialized knowledge set forth in a 1994 former Immigration and Naturalization Service (INS)

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<sup>2</sup> We note that while the Beneficiary was employed abroad in the position of general manager, the Petitioner has not claimed that the Beneficiary was employed in a managerial or executive capacity as defined at sections 101(a)(44) of the Act, and, on appeal, has raised no objections to the Director's finding that the record did not establish her employment in either capacity. Accordingly, we will address only the Petitioner's claim that the Beneficiary's position with the foreign entity involved specialized knowledge.

policy memorandum.<sup>3</sup> The Petitioner contends that it is clear that the Beneficiary's knowledge is advanced or beyond the elementary or introductory.

The Petitioner also submits additional evidence, including a copy of the Beneficiary's "Custom Declarant Certificate" in China, several printed and online articles discussing a quickly growing market for foreign baby products in China and regulatory issues related thereto, printouts of Chinese customs laws and Chinese import and export commodity inspections regulations referencing "customs brokers," articles regarding Chinese custom regulation, an overview of Chinese customs procedures, and copies of related customs forms typically stamped by "officers."

#### B. Analysis

Upon review of the petition and evidence, including the evidence submitted in support of the appeal, we conclude that the Petitioner has not established that the Beneficiary possesses specialized knowledge or that she has been employed abroad or would be employed in the United States in a specialized knowledge capacity as defined at 8 C.F.R. § 214.2(l)(1)(ii)(D).

In visa petition proceedings, the burden is on the petitioner to establish eligibility. *Matter of Brantigan*, 11 I&N Dec. 493 (BIA 1966). The petitioner must prove by a preponderance of evidence that the beneficiary is fully qualified for the benefit sought. *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). In evaluating the evidence, eligibility is to be determined not by the quantity of evidence alone but by its quality. *Id.*

In order to establish eligibility, the petitioner must show that the individual will be employed in a specialized knowledge capacity. 8 C.F.R. § 214.2(l)(3)(ii). The statutory definition of specialized knowledge at Section 214(c)(2)(B) of the Act is comprised of two equal but distinct subparts. First, an individual is considered to be employed in a capacity involving specialized knowledge if that person "has a special knowledge of the company product and its application in international markets." Second, an individual is considered to be serving in a capacity involving specialized knowledge if that person "has an advanced level of knowledge of processes and procedures of the company." *See also* 8 C.F.R. § 214.2(l)(1)(ii)(D). The petitioner may establish eligibility by submitting evidence that the beneficiary and the proffered position satisfy either prong of the definition.

Once a petitioner articulates the nature of the claimed specialized knowledge, it is the weight and type of evidence which establishes whether or not the beneficiary actually possesses specialized knowledge. U.S. Citizenship and Immigration Services (USCIS) cannot make a factual determination regarding a beneficiary's specialized knowledge if the petitioner does not, at a minimum, articulate with specificity the nature of the its products and services or processes and procedures, the nature of the specific industry or field involved, and the nature of the beneficiary's

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<sup>3</sup> Memorandum from James A. Puleo, Acting Executive Associate Commissioner, INS, CO 214L-P, *Interpretation of Specialized Knowledge* (March 9, 1994) (Puleo Memorandum).

knowledge. The petitioner should also describe how such knowledge is typically gained within the organization, and explain how and when the beneficiary gained such knowledge.

As both “special” and “advanced” are relative terms, determining whether a given beneficiary’s knowledge is “special” or “advanced” inherently requires a comparison of the beneficiary’s knowledge against that of others. With respect to either special or advanced knowledge, the petitioner ordinarily must demonstrate that the beneficiary’s knowledge is not commonly held throughout the particular industry and cannot be easily imparted from one person to another. The ultimate question is whether the petitioner has met its burden of demonstrating by a preponderance of the evidence that the beneficiary’s knowledge or expertise is advanced or special, and that the beneficiary’s position requires such knowledge.

In the present case, the Petitioner has not clearly articulated under which prong of the statutory definition the Beneficiary qualifies, suggesting that the Beneficiary has both special knowledge of the company’s products and their application in international markets and advanced knowledge of the company’s processes and procedures.

Because “special knowledge” concerns knowledge of the petitioning organization’s products or services and its application in international markets, the petitioner may meet its burden through evidence that the beneficiary has knowledge that is distinct or uncommon in comparison to the knowledge of other similarly employed workers in the particular industry.

Because “advanced knowledge” concerns knowledge of an organization’s processes and procedures, the petitioner may meet its burden through evidence that the beneficiary has knowledge of or expertise in the organization’s processes and procedures that is greatly developed or further along in progress, complexity and understanding in comparison to other workers in the employer’s operations. Such advanced knowledge must be supported by evidence setting that knowledge apart from the elementary or basic knowledge possessed by others.

In the current matter, the Petitioner has submitted a vague description of the Beneficiary’s duties abroad which do not convey her actual day to day duties and how she applies her claimed specialized knowledge. For instance, the foreign employer indicates that the Beneficiary is responsible for strategic development, business policies and objectives, company-wide business management, importation plans, management rules, business strategies for imports, international tax laws, new and existing customers, and formulating plans in response to import and export obstacles. Although the Petitioner submits documentation reflecting that the Beneficiary has likely been involved in the import and export of goods, it does not provide detail or supporting evidence to reflect strategic development she implemented, business policies or objectives she created, specific business she managed, importation plans she formulated, international tax laws she has dealt with, customers she has managed, or plans she has enacted in response to import and export obstacles. It is reasonable to expect that the Petitioner would provide more detail regarding the Beneficiary’s asserted foreign duties considering the Beneficiary has worked for the foreign employer since 2012.

Further, the Petitioner has not adequately explained how the above referenced tasks require or relate to her claimed specialized knowledge.

In addition, the Beneficiary's proposed duties in the United States are similarly vague and unsupported. For instance, the Petitioner asserts that the Beneficiary will be responsible for the development of new business, strategic long and short term planning, trading operations, compliance with rules and regulations, the elimination of unreasonable fees, planning of logistics, strategic market analysis, developing effective and constructive solutions to challenges and obstacles in trade activity and procedures, defining policy and setting guidelines, and developing internal technology infrastructure. Again, in each case, the Petitioner has not provided specific examples of the new business she will develop, strategic long and short term plans she will likely implement, trading operations she will oversee, rules and regulation she will commonly face, fees she will reduce, logistics she will plan, solutions she would likely formulate to deal with common challenges in trading activities, policies and guidelines she will likely implement, or internal technology for which she will be responsible. Without a full understanding of her proposed duties, it is difficult to discern to what extent specialized knowledge is required to accomplish these tasks. Reciting a beneficiary's vague job responsibilities or broadly-cast business objectives is not sufficient; the regulations require a detailed description of the beneficiary's daily job duties. Conclusory assertions regarding the beneficiary's employment capacity are not sufficient. The actual duties themselves will reveal the true nature of the employment. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990).

The Director pointed to a lack of detail in the Beneficiary's duties, both abroad and in the United States, and requested more detailed descriptions of her daily tasks. In addition, the Director requested additional information and evidence to differentiate the Beneficiary's duties, including an explanation as to how her knowledge differs from those similarly placed in the industry, the minimum time required to reach her level of knowledge, whether others hold the Beneficiary's level of knowledge in the organization, and how her knowledge can only be gained only through prior experience in the organization. The Director further asked for a copy of the Petitioner's organizational chart including the proposed positions within the organization. However, in each case, the Petitioner did not submit the evidence referenced by the Director which is probative to assessing whether the Beneficiary's knowledge is uncommon, noteworthy, or greatly developed beyond that of her colleagues or those similarly placed in the industry. Failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14). 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'r 1998) (quoting *Matter of Treasure Craft of Cal.*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

Furthermore, the Petitioner's statement and evidence suggest that the Beneficiary gained her claimed specialized knowledge during her tenure with other Chinese companies, and does not possess special or advanced knowledge that is specific to the foreign entity. The Petitioner states that the Beneficiary worked as a customs broker with various other companies from 1999 to 2012 prior to

forming the foreign employer. The fact that the vast majority of her experience was gained outside the Petitioner's organization leaves significant question as to whether her knowledge is primarily based on special knowledge of the products or processes of the company and their application into international markets or advanced with respect to the knowledge of the company's processes and procedures. The regulations require that a beneficiary's knowledge be specific to the petitioning organization, rather than commonly and widely held within the particular industry. Further, the Petitioner does not describe in detail the company's asserted products or processes and whether these are proprietary or specific to the company. As noted, USCIS cannot make a factual determination regarding the beneficiary's specialized knowledge if the Petitioner does not, at a minimum, articulate with specificity the nature of the its products and services or processes and procedures.

Although we have little doubt that the Beneficiary is skilled in the area of importing and exporting, particularly as it relates to Chinese laws and regulations, the Petitioner does not articulate how her skills and certification set her apart from similarly placed colleagues both within and outside the organization. Inherently, it is difficult to conclude that a beneficiary's knowledge is set apart from those in his or her company or industry at large without specific comparisons of them against similarly placed individuals. Without such clarifying evidence, it is reasonable to conclude that there are many employees working in the field of importing and exporting goods, particularly in China, given the size and complexity of its economy. In fact, the Petitioner submits articles and information on appeal suggesting that there are likely many other customs declarants in China and further that there are likely many other individuals with expertise in the field of trading baby products in China such as diapers and baby formula. Indeed, a number of the articles provided by the Beneficiary speak directly to a spike in the importation of these goods to China. The Petitioner provides extracts from Chinese law and descriptions of the Chinese import and export processes but does not effectively articulate or document how the Beneficiary's knowledge is set apart from the many other similarly placed individuals, particularly those working in the referenced baby products market.

In addition, the Petitioner raises question as to the Beneficiary's level of knowledge when it states that the Beneficiary will need to train herself in U.S. customs laws upon beginning her employment in the United States. This assertion undermines the Petitioner's claim that the Beneficiary's knowledge of import and export processes and procedures would be considered advanced or specialized in the U.S. marketplace. Indeed, this assertion by the Petitioner suggests that another employee with similar credentials could be trained as it indicates. The Petitioner explained that the Beneficiary and any staff hired by the new office would be responsible "for finding a market for Chinese products, taking purchase orders and conveying this information to [the foreign employer]" and for the "marketing and distribution" of the foreign employer's products to new customers in the United States." These activities would not seem to require her claimed specialized knowledge in the importation to baby products to China and the Petitioner does not otherwise clarify what products she will be involved with pursuant to her duties in the United States. The Petitioner has not resolved these inconsistencies with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The Petitioner further submits an expert opinion letter asserting that the Beneficiary's experience and training is equivalent to the completion of a bachelor's level degree in international trade. First, we may, in our discretion, use as advisory opinion statements submitted as expert testimony. However, where an opinion is not in accord with other information or is in any way questionable, we are not required to accept or may give less weight to that evidence. *Matter of Caron Int'l*, 19 I&N Dec. 791 (Comm'r 1988). Regardless, here, we have little reason to doubt that given the Beneficiary's level of experience in international trade that she would be considered as having the equivalent of a bachelor's level degree in this field. However, this qualification does not demonstrate that the Beneficiary's knowledge is special or advanced in this field in comparison to others holding a bachelor's degree or its equivalent, or that she possesses knowledge that is not commonly held among professionals in the import and export field.

As noted above, the Petitioner cites a 1994 INS policy memorandum discussing a specialized knowledge example relating to U.S. customs.<sup>4</sup> However, the example in the superseded Puleo Memorandum notes that the hypothetical employee has knowledge of "the firm's operational procedures," its "cost structure," and U.S. customs laws and EPA regulations, and emphasizes that his or her combination of internal and external knowledge is what rises this knowledge to the level of being specialized. While this case and the hypothetical petitioner discussed in the memo are both involved in import and export business, it does not follow that the knowledge of all those involved in this industry rises to the level of special knowledge. The Petitioner must submit sufficient evidence to substantiate that the Beneficiary's knowledge is noteworthy, uncommon, or greatly developed beyond that of others similarly placed. In fact, the USCIS L-1B Adjudications Policy memorandum states the following with respect to the burden of proof and evidentiary requirements:

In all cases, USCIS will review the entire record to determine whether the petitioner has established by a preponderance of the evidence that the beneficiary has specialized knowledge under the totality of the circumstances, in accordance with the standards set forth in the relevant statutes and regulations, as reflected in this memorandum. Merely stating that a beneficiary's knowledge is somehow different from others or greatly developed does not, in and of itself, establish that he or she possesses specialized knowledge. Ultimately, it is the weight and type of evidence that establishes whether the beneficiary possesses specialized knowledge.

*Id.* at 13.

In this matter, the Petitioner has not submitted sufficient explanations and evidence to corroborate its assertions regarding the Beneficiary's knowledge. For instance, the Petitioner has not specifically described the products, processes, or company specific knowledge the Beneficiary holds.

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<sup>4</sup> On August 17, 2015, USCIS issued a policy memorandum that "provides consolidated and authoritative guidance on determining whether specialized knowledge has been established in L-1B petitions" superseding the Puleo Memorandum cited by the Petitioner. USCIS Policy Memorandum PM-602-0111, L-1B Adjudications Policy 4 (Aug. 17, 2015), <https://www.uscis.gov/laws/policy-memoranda>.

Comparing the fact here to those described in the hypothetical example in the cited Puleo Memorandum, the Petitioner has not articulated the company's processes, explained its cost structures, or otherwise described how the Beneficiary's knowledge is different. In fact, the Petitioner submits substantial evidence indicating that the Beneficiary's knowledge was gained largely outside of the petitioning organization. The Petitioner provides a vague description of the Beneficiary's duties without specific examples of her daily tasks and accomplishments and how she applied her specialized knowledge. The Petitioner does not state how long it would take another similarly qualified employee to reach the Beneficiary's level of knowledge, nor does it indicate how many others hold this level of knowledge in the organization. Further, the Petitioner offers no specific comparisons of the Beneficiary against others similarly placed within and outside of the organization, but instead, submits supporting evidence reflecting that the type of knowledge she possesses is more likely than not commonly held by experienced professionals in her industry.

For the reasons discussed above, the evidence submitted does not establish that the Beneficiary possesses specialized knowledge and that she has been and will be employed in a specialized knowledge capacity. *See* Section 214(c)(2)(B) of the Act.

### III. CONCLUSION

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains with the petitioner. Section 291 of the Act, 8 U.S.C. § 136; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here the Petitioner has not met that burden.

**ORDER:** The appeal is dismissed.

Cite as *Matter of G-I-T-, LLC*, ID# 17323 (AAO July 18, 2016)