

in that country are so restrictive as to deny resettlement. In determining whether or not an applicant is firmly resettled in a foreign country, the officer reviewing the matter shall consider the conditions under which other residents of the country live: (1) Whether permanent or temporary housing is available to the refugee in the foreign country; (2) nature of employment available to the refugee in the foreign country; and (3) other benefits offered or denied to the refugee by the foreign country which are available to other residents, such as (i) right to property ownership, (ii) travel documentation, (iii) education, (iv) public welfare, and (v) citizenship.

(d) *Immediate relatives and special immigrants.* Any applicant for refugee status who qualifies as an immediate relative or as a special immigrant shall not be processed as a refugee unless it is in the public interest. The alien shall be advised to obtain an immediate relative or special immigrant visa and shall be provided with the proper petition forms to send to any prospective petitioners. An applicant who may be eligible for classification under sections 203(a)(1), (2), (3), (4), (5), (6), or (7) of the Act, and for whom a visa number is now available, shall be advised of such eligibility but is not required to apply.

[46 FR 45118, Sept. 10, 1981, as amended at 62 FR 10336, Mar. 6, 1997]

#### § 207.2 Applicant processing.

(a) *Forms.* Each applicant who seeks admission as a refugee shall submit an individual Form I-590 (Registration for Classification as Refugee). Additionally, each applicant 14 years old or older must submit completed forms G-325C (Biographical Information) and FD-258 (Applicant Card).

(b) *Hearing.* Each applicant 14 years old or older shall appear in person before an immigration officer for inquiry under oath to determine his/her eligibility for admission as a refugee.

(c) *Medical examination.* Each applicant shall submit to a medical examination as required by sections 221(d) and 234 of the Act.

(d) *Sponsorship.* Each applicant must be sponsored by a responsible person or organization. Transportation for the

applicant from his/her present abode to the place of resettlement in the United States must be guaranteed by the sponsor.

[46 FR 45118, Sept. 10, 1981, as amended at 64 FR 27661, May 21, 1999]

#### § 207.3 Waivers of inadmissibility.

(a) *Authority.* Section 207(c)(3) of the Act sets forth grounds of inadmissibility under section 212(a) of the Act which are not applicable and those which may be waived in the case of an otherwise qualified refugee and the conditions under which such waivers may be approved. Officers in charge of overseas offices are delegated authority to initiate the necessary investigations to establish the facts in each waiver application pending before them and to approve or deny such waivers.

(b) *Filing requirements.* The applicant for a waiver must submit Form I-602, Application by Refugee for Waiver of Grounds of Inadmissibility, with the Service office processing his or her case. The burden is on the applicant to show that the waiver should be granted based upon humanitarian grounds, family unity, or the public interest. The applicant shall be notified in writing of the decision, including the reasons for denial, if the application is denied. There is no appeal from such decision.

[62 FR 10336, Mar. 6, 1997]

#### § 207.4 Approved application.

Approval of Form I-590 by an officer in charge outside the United States authorizes the district director of the port of entry in the United States to admit the applicant conditionally as a refugee upon arrival at the port within four months of the date the Form I-590 was approved. There is no appeal from a denial of refugee status under this chapter.

#### § 207.5 Waiting lists and priority handling.

Waiting lists are maintained for each designated refugee group of special humanitarian concern. Each applicant whose application is accepted for filing by the Immigration and Naturalization Service shall be registered as of the date of filing. The date of filing is the

priority date for purposes of case control. Refugees or groups of refugees may be selected from these lists in a manner that will best support the policies and interests of the United States. The Attorney General may adopt appropriate criteria for selecting the refugees and assignment of processing priorities for each designated group based upon such considerations as: Reuniting families, close association with the United States, compelling humanitarian concerns, and public interest factors.

**§ 207.6 Control over approved refugee numbers.**

Current numerical accounting of approved refugees is maintained for each special group designated by the President. As refugee status is authorized for each applicant, the total count is reduced correspondingly from the appropriate group so that information is readily available to indicate how many refugee numbers remain available for issuance.

**§ 207.7 Derivatives of refugees.**

(a) *Eligibility.* A spouse, as defined in section 101(a)(35) of the Act, and/or child(ren), as defined in section 101(b)(1)(A), (B), (C), (D), or (E) of the Act, shall be granted refugee status if accompanying or following-to-join the principal alien. An accompanying derivative is a spouse or child of a refugee who is in the physical company of the principal refugee when he or she is admitted to the United States, or a spouse or child of a refugee who is admitted within 4 months following the principal refugee's admission. A following-to-join derivative, on the other hand, is a spouse or child of a refugee who seeks admission more than 4 months after the principal refugee's admission to the United States.

(b) *Ineligibility.* The following relatives of refugees are ineligible for accompanying or following-to-join benefits:

(1) A spouse or child who has previously been granted asylee or refugee status;

(2) An adopted child, if the adoption took place after the child became 16 years old, or if the child has not been

in the legal custody and living with the parent(s) for at least 2 years;

(3) A stepchild, if the marriage that created this relationship took place after the child became 18 years old;

(4) A husband or wife if each/both were not physically present at the marriage ceremony, and the marriage was not consummated (section 101(a)(35) of the Act);

(5) A husband or wife if the U.S. Attorney General has determined that such alien has attempted or conspired to enter into a marriage for the purpose of evading immigration laws; and

(6) A parent, sister, brother, grandparent, grandchild, nephew, niece, uncle, aunt, cousin or in-law.

(c) *Relationship.* The relationship of a spouse and child as defined in sections 101(a)(35) and 101(b)(1)(A), (B), (C), (D), or (E), respectively, of the Act, must have existed prior to the refugee's admission to the United States and must continue to exist at the time of filing for accompanying or following-to-join benefits and at the time of the spouse or child's subsequent admission to the United States. If the refugee proves that the refugee is the parent of a child who was born after the refugee's admission as a refugee, but who was *in utero* on the date of the refugee's admission as a refugee, the child shall be eligible to accompany or follow-to-join the refugee. The child's mother, if not the principal refugee, shall not be eligible to accompany or follow-to-join the principal refugee unless the child's mother was the principal refugee's spouse on the date of the principal refugee's admission as a refugee.

(d) *Filing.* A refugee may request accompanying or following-to-join benefits for his/her spouse and unmarried, minor child(ren) (whether the spouse and children are in or outside the United States) by filing a separate Form I-730 Refugee/Asylee Relative Petition, for each qualifying family member with the designated Service office. The Form I-730 may only be filed by the principal refugee. Family members who derived their refugee status are not eligible to file the Form I-730 on behalf of their spouse and child(ren). A separate Form I-730 must be filed for each qualifying family member before February 28, 2000 or within 2 years of