



**U.S. Customs and
Border Protection**

APR 21 2008

Mr. Charles D. Herrington,
Senior Assistant General Counsel
Micron Technology, Inc.
8000 S. Federal Way
Boise, ID 83707-0006

Dear Mr. Herrington:

Thank you for your letter dated March 14, 2008, to U.S. Customs and Border Protection (CBP), Office of Chief Counsel requesting agency guidance regarding immigrant intent for a Trade NAFTA (TN) applicant whose spouse is the beneficiary of an I-140 petition. The Office of Chief Counsel forwarded your request for guidance to this office for response.

After reviewing applicable law for North American Free Trade Agreement (NAFTA) applicants for admission, it is our determination that the mere filing or approval of an immigrant petition does not automatically constitute intent on the part of the beneficiary to abandon his or her foreign residence. This would hold for a TN principal who may be riding on a spouse's immigrant petition.

Of course, a TN applicant could have the intent to immigrate or adjust status at a future time, but as long as his or her intent at the time of application for admission is to be in the United States for a temporary period pursuant to NAFTA and regulations at 8 CFR 214.6, he or she could be admitted. However, once a TN files an application for an immigrant visa or adjustment of status, then the TN would no longer be eligible for admission or an extension of stay as a TN nonimmigrant. The NAFTA professional must establish that the intent of entry is not for permanent residence. *[See Appendix 15-4 of this manual for Annex 1603, Appendix 1603.D.1.] [For regulations relating to NAFTA TN classification, refer to 8 CFR 214.6.]*

I hope that we have adequately addressed your request for agency guidance regarding this matter. If I can be of further assistance, please contact me 202 344-0659.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul M. Morris".

Paul M. Morris
Executive Director
Admissibility and Passenger Programs