ARTIGO ORIGINAL

USCIS Analysis in EB2 NIW Cases: A Critical Perspective on the National Importance of STEM Professionals

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RESUMO: Este artigo examina criticamente a forma como o U.S. Citizenship and Immigration Services (USCIS) tem aplicado o precedente Matter of Dhanasar na adjudicação de petições EB-2 National Interest Waiver (NIW), com foco especial em profissionais de STEM. Argumenta-se que a leitura excessivamente restritiva do requisito de "importância nacional" pode entrar em tensão com evidências governamentais sobre demanda, competitividade e segurança nacional, além de desconsiderar o impacto cumulativo e de longo prazo típico da inovação científica. Com base em relatórios públicos e tendências globais de competição por talentos, o texto identifica inconsistências entre política e a prática e propõe recomendações para aumentar a previsibilidade, o alinhamento estratégico e a transparência na análise do USCIS, preservando, ao mesmo tempo, a integridade do sistema de imigração.
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PALAVRAS-CHAVE: EB-2 NIW, USCIS, Matter of Dhanasar, STEM, Interesse nacional.

ABSTRACT: This article critically examines how U.S. Citizenship and Immigration Services (USCIS) has applied the Matter of Dhanasar framework in EB-2 National Interest Waiver (NIW) adjudications, with particular attention to STEM professionals. It argues that an overly restrictive reading of "national importance" may conflict with government evidence on workforce demand, competitiveness, and national security, and may undervalue the cumulative, long-term contribution pattern that characterizes scientific and technological innovation. Drawing on public reports and global talent trends, the paper highlights gaps between stated policy goals and administrative practice and offers recommendations aimed at improving predictability, strategic alignment, and transparency while maintaining program integrity.

KEY-WORDS: EB-2 NIW, USCIS, Matter of Dhanasar, STEM, National interest.

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1. INTRODUCTION

The United States Citizenship and Immigration Services (USCIS) plays a crucial role in determining the future of innovation and competitiveness in the United States through its decisions on immigrant visas, particularly in the EB2 category with National Interest Waiver (NIW). This category is especially relevant for highly qualified professionals in the fields of Science, Technology, Engineering, and Mathematics (STEM). However, USCIS's current interpretation of "national interest," based on the "Matter of Dhanasar" precedent, has raised significant concerns about its adequacy to the country's economic and technological needs.

This essay will critically examine USCIS's approach, arguing that its restrictive interpretation of national interest may be at odds with the real needs of the American economy and with the government's own policies that emphasize the importance of STEM professionals for national competitiveness.

2. THE LEGAL CONTEXT: MATTER OF DHANASAR AND ITS CRITERIA

The "Matter of Dhanasar" case established a new framework for evaluating EB2 NIW petitions in 2016. According to this decision, the petitioner must satisfy three criteria (prongs):

- The foreign national's proposed endeavor has both substantial merit and national importance.
- The foreign national is well positioned to advance the proposed endeavor.
- It would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.

Although these criteria were designed to provide a more flexible and forward-looking assessment, USCIS's practical interpretation has often been criticized for being excessively restrictive, especially in relation to the first criterion, which ends up giving excessive discretion to the immigration officer in analyzing cases, causing many highly qualified professionals to have their immigration claims refused, even though they are highly qualified professionals in strategic areas for the American economy.

2.1. DETAILED ANALYSIS OF THE DHANASAR CRITERIA

2.1.1. SUBSTANTIAL MERIT AND NATIONAL IMPORTANCE

This criterion has been the most controversial in USCIS's application. The agency often interprets "national importance" narrowly, requiring the petitioner to demonstrate an immediate and significant impact on a national scale. However, this interpretation does not take into account the cumulative and long-term impact of STEM professionals.

For example, a software engineer working on machine learning algorithms may not have an immediately measurable national impact, but their work may contribute to significant advances in artificial intelligence that, over time, have profound implications for the economy and national security.

The big question to be posed here is that the analysis should be cumulative and not individual, otherwise there is a risk of gigantic waste of qualified professionals.

2.1.2. WELL POSITIONED TO ADVANCE THE PROPOSED ENDEAVOR

This criterion is generally more straightforward, focusing on the petitioner's qualifications, skills, and achievements. However, USCIS sometimes applies excessively high standards, expecting candidates to have already achieved national or international recognition in their fields.

This approach can be particularly problematic for early-career STEM professionals, who may have exceptional skills and potential but have not yet had time to accumulate an extensive track record of achievements.

3. THE NATIONAL IMPORTANCE OF STEM PROFESSIONALS: GOVERNMENT EVIDENCE

Numerous government reports and studies highlight the critical importance of STEM professionals to the U.S. economy and national security. As an example, we will cite a few:

3.1. NATIONAL SCIENCE BOARD (NSB) - "THE STATE OF U.S. SCIENCE AND ENGINEERING 2020"

This report emphasizes that "progress in science, technology, and innovation is fundamental to the nation's health, prosperity, and security." It further highlights that the U.S. is losing its competitive edge in STEM to countries like China (1).

The report also notes that "the U.S. S&E workforce continues to grow, reaching over 7 million workers in 2019." However, it warns that "other countries, particularly China, are rapidly developing their S&E capabilities, challenging the U.S.'s historical position" (1).

3.2. BUREAU OF LABOR STATISTICS (BLS) - "EMPLOYMENT IN STEM OCCUPATIONS"

BLS projections indicate that STEM occupations will grow by 8% between 2019 and 2029, more than double the rate of all other occupations. This underscores the growing demand for these professionals (2).

The BLS also notes that "median wages for workers in STEM occupations ($89,780) were more than double the national average for non-STEM occupations ($40,020) in May 2021," indicating the high value placed on these professionals in the labor market (2).

3.3. NATIONAL SCIENCE FOUNDATION (NSF) - "SCIENCE AND ENGINEERING INDICATORS 2020"

This report highlights that the U.S. continues to rely heavily on international STEM talent, with foreigners representing a significant portion of advanced degrees and the workforce in critical fields (3).

The report indicates that "in 2017, international students obtained more than half of the doctoral degrees awarded in the U.S. in engineering, mathematics and computer science, and economics." Furthermore, "foreign-born workers constituted 30% of all workers in science and engineering occupations in the U.S. in 2017" (3).

3.4. DEPARTMENT OF HOMELAND SECURITY (DHS) - "STEM DESIGNATED DEGREE PROGRAM LIST"

The continuous expansion of this list by DHS reflects the government's recognition of the importance of attracting and retaining international talent in a wide range of STEM fields (4).

The list, which began with only a few fields in 2008, now includes hundreds of areas of study, covering not only traditional sciences and engineering but also emerging fields such as data analysis, cybersecurity, and biotechnology (4).

3.5. NATIONAL ACADEMIES OF SCIENCES, ENGINEERING, AND MEDICINE - "BUILDING AMERICA'S SKILLED TECHNICAL WORKFORCE"

This report emphasizes the critical need to develop and maintain a skilled technical workforce to sustain U.S. economic competitiveness (6).

The report highlights that "the shortage of workers with adequate technical skills hinders companies' ability to innovate, expand, and compete in global markets" (6).

3.6. EXECUTIVE OFFICE OF THE PRESIDENT - "STRATEGY FOR AMERICAN LEADERSHIP IN ADVANCED MANUFACTURING"

This strategic document highlights the critical importance of advanced manufacturing for U.S. economic and national security, and emphasizes the need for a highly skilled STEM workforce (7).

The report states that "developing a skilled workforce in advanced manufacturing is essential to maintaining U.S. leadership in innovation and global competitiveness" (7).

It is worth mentioning President Biden's Executive Order (15) that signals a more welcoming approach to STEM immigration, recognizing the crucial role of international talent in maintaining U.S. technological and scientific leadership. Although the order provides a framework for positive changes, its ultimate impact will depend on its implementation and any subsequent policy or legislative actions. Therefore, it is necessary to move in the direction of the spirit presented in the aforementioned executive order.

4. THE DISCREPANCY BETWEEN POLICY AND PRACTICE: A DEEPER ANALYSIS

The discrepancy between stated policy and USCIS administrative practice raises important questions that deserve a more detailed analysis:

4.1. RESTRICTIVE INTERPRETATION OF "NATIONAL INTEREST"

USCIS appears to be applying an overly restrictive interpretation of what constitutes "national interest." This approach not only contradicts the wide range of government evidence highlighting the critical importance of STEM professionals, but also ignores the interconnected and long-term nature of scientific and technological progress.

For example, a researcher working on a seemingly obscure aspect of quantum physics may not demonstrate an immediate national benefit, but their work may be

fundamental to future advances in quantum computing, which has significant implications for national security and economic competitiveness (3).

It's important to consider, however, that USCIS's approach may be motivated by legitimate concerns. The agency has the responsibility to ensure that the immigration system is not abused and that the benefits granted truly serve the national interest .

4.2. FOCUS ON INDIVIDUAL VS. COLLECTIVE IMPACT

The current approach seems to prioritize projects or individuals that can demonstrate an immediate and substantial national impact. However, this ignores the cumulative impact of many STEM professionals working in diverse fields and projects.

This myopic view fails to recognize that major technological advances often result from the convergence of multiple lines of research and development. For example, the development of mRNA vaccines, crucial in responding to the COVID-19 pandemic, was based on decades of seemingly unrelated research in molecular biology, nanotechnology, and data science (1).

4.3. DISREGARD FOR GLOBAL TRENDS

Global competition for STEM talent is intensifying. Countries like China and India are producing a much larger number of STEM graduates than the U.S. USCIS's restrictive approach may be inadvertently undermining the U.S.'s ability to attract and retain crucial global talent.

According to the NSF, "China surpassed the United States as the world's largest producer of natural sciences and engineering doctorates in 2007." This trend, if not addressed, could have far-reaching implications for U.S. leadership in innovation and technology (3).

4.4. FAILURE TO RECOGNIZE THE INTERDISCIPLINARY NATURE OF MODERN INNOVATION

USCIS's current approach often fails to recognize the increasingly interdisciplinary nature of modern innovation. Many significant advances occur at the intersections between traditional disciplines.

For example, the emerging field of bioinformatics, which combines biology, computer science, and statistics, is driving revolutionary advances in personalized medicine and drug discovery. However, professionals working in these interdisciplinary

areas may face additional challenges in demonstrating the "national importance" of their work within USCIS's current framework (4).

5. THE CASE FOR A BROADER INTERPRETATION OF NATIONAL INTEREST: ADDITIONAL ARGUMENTS

5.1. RECOGNITION OF CUMULATIVE IMPACT

Each software engineer, data scientist, or researcher contributes to the U.S. innovation ecosystem. Collectively, these professionals drive technological advances, increase productivity, and maintain U.S. global competitiveness.

A study by the National Foundation for American Policy found that "immigrants founded 55% of America's billion-dollar companies." This demonstrates the significant cumulative impact that immigrant STEM professionals can have on the U.S. economy (9).

5.2. ALIGNMENT WITH NATIONAL STRATEGIC OBJECTIVES

The admission of highly qualified STEM professionals aligns directly with national strategic objectives of leadership in innovation, cybersecurity, and economic competitiveness.

The U.S. National Security Council has identified several critical and emerging technologies, including artificial intelligence, quantum computing, biotechnology, and advanced manufacturing, as essential for national security. Attracting and retaining global talent in these areas is crucial to maintaining U.S. leadership (7).

5.3. FILLING CRITICAL SKILL GAPS

Many STEM sectors face shortages of skilled labor. Facilitating immigration of STEM professionals can help fill these crucial gaps.

A report by Korn Ferry predicts that by 2030, the U.S. could lose $162 billion in annual revenue due to STEM skill shortages. This underscores the urgency of adopting a more proactive approach to attracting and retaining global STEM talent (10).

5.4. PROMOTING DIVERSITY AND INNOVATION

The diversity of perspectives and experiences brought by international STEM professionals can catalyze innovation and creative problem-solving.

Studies show that diverse teams are more innovative and productive. A McKinsey report found that companies in the top quartile for ethnic/cultural diversity are 33% more likely to have above-average profitability (11).

5.5. MAINTAINING LEADERSHIP IN RESEARCH AND DEVELOPMENT

The U.S. has historically been a leader in research and development (R&D), but this position is being challenged. Attracting and retaining top global talent is crucial to maintaining this leadership.

According to UNESCO, China surpassed the U.S. in total R&D spending in 2019. To maintain its competitive edge, the U.S. needs not only to invest in R&D but also to ensure it has access to the best global talent to conduct this research (12).

6. IMPLICATIONS OF THE CURRENT APPROACH

6.1. LOSS OF GLOBAL TALENT

Highly qualified professionals may choose to pursue opportunities in other countries with more welcoming immigration policies for STEM talent.

Countries such as Canada, Australia, and several European countries have implemented specific immigration policies to attract STEM professionals. For example, Canada's Fast-Track Visa program for technology professionals can process visas in as little as two weeks (14).

6.2. WEAKENING OF TECHNOLOGICAL LEADERSHIP

The inability to attract and retain top global talent may gradually erode the U.S.'s position as a global leader in innovation and technology.

A report by the U.S. Competitiveness Council warns that "unless the U.S. increases the number of STEM graduates and improves the quality of STEM education, the nation will continue to lose economic ground to foreign competitors" (6).

6.3. ECONOMIC IMPACT

The shortage of STEM professionals can slow economic growth, particularly in high-tech sectors that are crucial for the future economy.

A study by New American Economy found that for every 100 immigrants with STEM Ph.D. degrees, 262 jobs are created for U.S.-born workers. This demonstrates the multiplier effect that STEM professionals have on the economy (9).

Furthermore, innovation driven by STEM professionals often leads to the creation of new industries and markets. For example, the emergence of the artificial intelligence industry, largely driven by international talent, is projected to add $15.7 trillion to the global economy by 2030, according to a PwC report.

6.4. NATIONAL SECURITY

Fields such as artificial intelligence, cybersecurity, and advanced materials research are crucial for national security. The lack of talent in these areas can have far-reaching implications.

The U.S. Department of Defense has identified the shortage of STEM talent as a threat to national security. In its report "Assessing and Strengthening the Manufacturing and Defense Industrial Base and Supply Chain Resiliency of the United States," the DoD highlights the critical need for STEM professionals to maintain the U.S.'s technological advantage in defense (13).

This shortage is not limited to the defense sector alone. Cybersecurity, for example, is a growing concern across all sectors of the economy. An (ISC)² report estimates that there is a global gap of 3.1 million cybersecurity professionals, with the U.S. facing a shortage of nearly 500,000 professionals in this critical field.

6.5. INNOVATION AND ENTREPRENEURSHIP

USCIS's restrictive approach may stifle innovation and entrepreneurship, areas where immigrants have historically played a disproportionate role.

A study by the National Foundation for American Policy showed that immigrants founded or co-founded 55% of the U.S.'s "unicorn" companies (startups valued at $1 billion or more). Many of these companies are in high-tech sectors and heavily rely on STEM talent (9).

Additionally, a report by the New American Economy Research Fund found that 44% of Fortune 500 companies were founded by immigrants or their children. These companies employ 13.5 million people and had combined revenues of $6.3 trillion in 2018.

6.6. GLOBAL COMPETITIVENESS

As other countries implement more aggressive immigration policies to attract STEM talent, the U.S. risks falling behind in the global race for talent.

The Global Talent Competitiveness Index 2020 already shows the U.S. falling to 3rd place, behind Switzerland and Singapore, in its ability to grow, attract, and retain talent (14).

This trend is particularly concerning when we consider the crucial role that international talent plays in U.S. innovation. For example, a study by the National Foundation for American Policy showed that immigrants accounted for 35.5% of all researchers in the U.S. in 2018, an increase from 28.2% in 2000.

7. THE USCIS APPROACH TO EB2 NIW: A FLAWED SAVINGS ANALOGY

The current approach of the United States Citizenship and Immigration Services (USCIS) in adjudicating EB2 National Interest Waiver (NIW) cases, particularly for STEM professionals, can be likened to a fundamentally flawed savings strategy. This analogy illuminates the shortsightedness of the agency's interpretation of "national interest" and its potential long-term consequences for American innovation and competitiveness.

Imagine a scenario where an individual aims to accumulate $1 million in savings, a goal that undoubtedly represents a substantial financial achievement. Now, consider a dedicated saver who consistently deposits $100 every day. In the USCIS's current paradigm of evaluation, this person's efforts would be rejected because each individual $100 deposit falls far short of the $1 million target.

This rejection, of course, defies logic and basic arithmetic. It fails to account for the cumulative effect of these regular contributions. Over time, these $100 deposits would indeed accumulate to reach the $1 million goal. In fact, in less than 28 years, this steady approach would successfully achieve the target.

The USCIS's current adjudication process for EB2 NIW petitions often mirrors this flawed reasoning. When evaluating a STEM professional's potential contribution to the national interest, the agency frequently focuses on immediate, large-scale impact. It seeks the equivalent of a $1 million deposit, overlooking the value of consistent, incremental contributions that, in aggregate, can yield substantial national benefits.

Just as each $100 deposit contributes to the overall savings goal, each STEM professional brings unique skills, knowledge, and potential that contribute to the nation's scientific and technological advancement. A researcher working on a seemingly niche area of quantum computing, a data scientist developing novel algorithms, or an engineer refining renewable energy technologies may not single-handedly revolutionize their fields

overnight. However, their sustained efforts, combined with those of their peers, drive the incremental progress that ultimately leads to breakthrough innovations.

The USCIS's current approach risks rejecting these valuable "deposits" to the nation's intellectual and innovative capital. By demanding immediate, demonstrable national impact, it overlooks the cumulative effect of having a rich, diverse pool of STEM talent contributing to America's scientific and technological ecosystem.

Moreover, this approach fails to account for the often unpredictable nature of scientific discovery and technological innovation. Today's seemingly abstract research can become tomorrow's groundbreaking application, much like compound interest can dramatically accelerate savings growth over time.

To rectify this, the USCIS needs to adopt a more nuanced, long-term perspective in its adjudication process. It should recognize that the national interest is served not only by immediate, large-scale contributions but also by the steady accumulation of knowledge, skills, and incremental advancements brought by STEM professionals.

A more appropriate approach would be to evaluate the potential of STEM professionals to contribute consistently over time to their fields and, by extension, to the national interest. This would be akin to assessing a savings plan based on the consistency of contributions and the potential for long-term growth, rather than expecting the entire sum to materialize at once.

By shifting to this perspective, the USCIS would better align its adjudication process with the realities of scientific progress and technological innovation. It would recognize that the national interest is best served by cultivating a rich, diverse ecosystem of STEM talent, where each professional represents a valuable "deposit" in America's intellectual and innovative capital.

In conclusion, just as rejecting small but consistent savings contributions is counterproductive to achieving a large financial goal, dismissing the potential cumulative impact of STEM professionals is detrimental to the nation's scientific and technological advancement. The USCIS must recalibrate its approach to EB2 NIW adjudication to better capture the long-term, aggregate benefits that STEM professionals bring to the United States. Only then can it truly serve the national interest in maintaining America's global leadership in innovation and technology.

8. THE CURRENT USCIS CRITERIA: A PERSPECTIVE THROUGH THE LENS OF HISTORY

In analyzing the current USCIS criteria for determining "national interest" in EB2 NIW cases, a thought-provoking question arises: Would Albert Einstein, one of the most influential scientists in history, meet these criteria if he were applying today?

This seemingly outlandish proposition becomes less far-fetched when we consider the USCIS's often narrow interpretation of "substantial merit and national importance" - the first prong of the Matter of Dhanasar framework. The agency frequently requires petitioners to demonstrate immediate, quantifiable national impact, a standard that even Einstein might have struggled to meet early in his career.

Consider Einstein's circumstances in 1933 when he immigrated to the United States.At that time, much of Einstein's work, including his revolutionary theories of special and general relativity, was highly theoretical with no immediate practical applications. The full impact of his work on physics, and subsequently on technology and the broader society, would not be realized for decades.

Under the current interpretation, USCIS adjudicators might argue that Einstein's work, while intellectually significant, lacks immediate applicability to U.S. national interests. They might question how his theoretical physics research directly addresses current national needs or how it would more immediately benefit the United States compared to the work of other physicists.

This hypothetical scenario underscores a critical flaw in the current approach: it fails to account for the long-term, often unpredictable nature of scientific breakthroughs. Many groundbreaking discoveries and theories, like Einstein's, may not demonstrate immediate practical applications but can fundamentally reshape our understanding of the world and lead to transformative technologies decades later.

The potential rejection of an Einstein-like figure under current criteria serves as a stark reminder of the shortsightedness of requiring immediate, measurable national impact from STEM professionals. It highlights the need for a more nuanced, forward-looking approach in evaluating the potential contributions of highly skilled immigrants.

This perspective calls for a reevaluation of the EB2 NIW criteria to better accommodate the often abstract and long-term nature of scientific research and innovation. A more flexible interpretation that considers the potential for long-term, transformative impact would not only have ensured a place for Einstein in the 1930s but would also better

serve the United States' current and future interests in maintaining its position as a global leader in science and technology.

By broadening our understanding of "national interest" to include the potential for paradigm-shifting discoveries and long-term scientific progress, we can ensure that the United States remains a magnet for the world's brightest minds, fostering an environment where the next Einstein-level genius can thrive and contribute to American innovation and scientific leadership.

9. RECOMMENDATIONS FOR REFORM: A MORE STRATEGIC APPROACH

9.1. REVISION OF THE INTERPRETATION OF "NATIONAL INTEREST"

USCIS should consider a broader and more strategic interpretation of national interest, aligned with existing government evidence and policies on the importance of STEM professionals.

This review should include explicit consideration of the cumulative and long-term impact of STEM professionals, as well as recognize the interdisciplinary nature of modern innovation (1, 3).

For example, USCIS could develop a framework that considers not only an individual's immediate impact but also their potential for long-term contribution to the U.S. innovation ecosystem.

9.2. CREATION OF SPECIFIC GUIDELINES FOR STEM

Develop specific guidelines for evaluating EB2 NIW petitions from STEM professionals, recognizing the unique characteristics and value of these fields.

These guidelines could include a list of priority STEM fields, based on labor market demand projections and national strategic objectives (2, 7).

Additionally, USCIS could consider creating a "fast track" for petitions in STEM fields identified as critical to national security or economic competitiveness.

9.3. INCORPORATION OF INTERDEPARTMENTAL PERSPECTIVES

Involve agencies such as the Department of Commerce, the Office of Science and Technology Policy, and the National Security Council in formulating STEM-related immigration policies.

An interagency committee could be established to provide regular input on STEM talent needs and the implications of immigration policies for national competitiveness (6, 7).

This committee could also be responsible for producing an annual report on the state of the STEM workforce in the U.S., including recommendations for adjustments to immigration policies.

9.4. IMPLEMENTATION OF A POINTS SYSTEM

Consider implementing a points system that objectively assesses the qualifications, experience, and potential contribution of STEM candidates.

This system could be modeled in part on the Canadian Express Entry system, which assigns points based on factors such as education, work experience, language skills, and adaptability potential (14).

The points system could include specific criteria for STEM professionals, such as publications in high-impact journals, patents, participation in government-funded research projects, among others.

9.5. REGULAR POLICY REVIEW

Establish a process for regular review of STEM-related immigration policies to ensure they remain aligned with evolving economic and national security needs.

This review could be conducted annually, with input from industry leaders, academia, and relevant government agencies (1, 3, 6).

The review process could include a comparative analysis of immigration policies from other leading innovation countries to ensure that the U.S. remains competitive in attracting global talent.

9.6. SPECIFIC VISA PROGRAM FOR STEM

Consider creating a new visa category specific to highly qualified STEM professionals, with clear eligibility criteria and accelerated approval processes.

This program could be modeled in part on the UK's Tech Nation Visa program, which offers a streamlined path for exceptional technology professionals (14).

The program could include additional benefits, such as an accelerated path to permanent residency, to make the U.S. a more attractive destination for global STEM talent.

9.7. IMPROVE TRANSPARENCY AND PREDICTABILITY

Provide clearer and more detailed guidance on the evaluation criteria for EB2 NIW petitions, especially regarding the first prong of the Dhanasar test.

This could include regular publication of anonymous case decisions, providing concrete examples of successful and unsuccessful petitions (5).

USCIS could also consider creating a pre-evaluation system, allowing potential petitioners to receive preliminary feedback on their qualifications before submitting a formal petition. Such a system could even leverage artificial intelligence, developed by someone in the STEM field.

9.8. PARTNERSHIPS WITH UNIVERSITIES AND INDUSTRY

Establish closer partnerships with universities and technology companies to identify and facilitate the retention of promising STEM talent.

This could include a "fast-track" program for international postgraduate students in critical STEM fields, allowing for a smoother transition to employment in the U.S. after graduation (3, 9).

Additionally, USCIS could work with industry associations and universities to develop mentoring and integration programs for newly immigrated STEM professionals, facilitating their adaptation and maximizing their potential contribution to the U.S. economy.

10. CONCLUSION

USCIS's current interpretation of "national interest" in EB2 NIW cases for STEM professionals appears to be at odds with the abundant evidence of the critical importance of these professionals to the economy and security of the United States. The analogy of saving $100 at a time to reach $1 million is particularly interesting, just like the hypothetical case of EB2 NIW visa denial for Einstein.

To maintain its position of global leadership in innovation and technology, the United States must reconsider its approach to immigration for highly qualified STEM professionals. A broader and more strategic interpretation of "national interest" would not only better align with the government's stated policies and objectives but would also strengthen the country's ability to attract and retain the global talent needed to drive future economic and technological progress.

The revision of USCIS's analytical system is not just a matter of immigration policy, but a strategic necessity to ensure that the United States maintains its competitive edge in the era of the global knowledge economy. By adopting a more holistic and forward-looking approach in evaluating EB2 NIW petitions for STEM professionals, the U.S. can not only fill critical skill gaps but also cultivate a more robust and diverse innovation ecosystem that will drive economic growth and national security in the decades to come.

Ultimately, the United States' ability to maintain its position of global leadership in science and technology will depend not only on its investments in research and development but also on its ability to attract and retain the world's best talent. A more welcoming and strategic immigration policy for STEM professionals is not just an option, but an imperative necessity for the future of the nation.

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