



**UNITED STATES MISSION TO THE UNITED NATIONS
NEW YORK**

June 27, 2008

HC-57(S)-08

The United States Mission to the United Nations presents its compliments to the United Nations Secretariat and wishes to emphasize the importance the host country places on providing fair treatment to domestic workers who come to the United States in the employ of members of the United Nations diplomatic community. The United States stresses that it is essential that all members of the United Nations Secretariat who employ domestic workers respect fully United States law concerning their treatment. This note verbale is intended to remind diplomatic and non-diplomatic employers of their obligations with regard to United States and local law in this regard.

Recently, the host country has learned of a number of allegations of trafficking in persons with respect to domestic workers, including allegations of involuntary servitude and physical abuse. For example, this Mission has periodically been informed of instances where wages actually paid are less than those stipulated in an employment contract; where passports have been withheld from employees; where the actual number of working hours is considerably greater than those initially contemplated and no additional pay is provided; and where an employee is forbidden from leaving an employer's premises even when off-duty. The United States Mission takes seriously any such allegation brought to its

attention and refers these cases, as appropriate, to the United States Department of Justice for review and investigation.

The efforts of the United States Government regarding mistreatment of domestic workers are guided by: The Trafficking Victims Protection Act of 2000, Public Law 108-193, and the Trafficking Victims Reauthorization Act of 2005, Public Law 109-164. These laws expand the crimes covered by statute and expand the penalties available to United States Prosecutors who pursue such cases. The law also provides additional protection for victims and expands the United States Government's international role to prevent mistreatment of domestic workers. In accordance with these guidelines, if following an investigation by law enforcement authorities a prosecutor notifies the United States Mission that, but for diplomatic immunity, a diplomat or a dependent of a diplomat would be prosecuted, the United States Mission will request a waiver of diplomatic immunity from the United Nations Secretariat.

The United States Mission also wishes to advise the United Nations Secretariat that its commitment to fair and reasonable labor conditions is consistent with its commitment to human rights and, further, comports with the practice of other governments and with the requirements imposed by international organizations on their employees who have foreign domestic workers. Although the United States recognizes that the great majority of diplomats are law-abiding members of the United Nations community, it is necessary to periodically re-circulate and update information regarding United States laws, regulations and policies regarding the employment of personal domestic servants.

Attached to this note verbale is Circular Note Verbale HC-131-04 of November 1, 2004 concerning the terms and conditions of employment which remains in effect.

The United States Mission to the United Nations avails itself of this opportunity to renew to the United Nations Secretariat the assurances of its highest consideration.



**UNITED STATES MISSION TO THE UNITED NATIONS
NEW YORK**

November 1, 2004

HC-131-04

The United States Mission to the United Nations presents its compliments to the United Nations Secretariat and has the honor to refer to its circular diplomatic note HC-04-00 of February 18, 2000, concerning the employment of personal servants, attendants, and domestic workers who are in the United States, or plan to come to the United States, in non-immigrant G-5 visa status. The present note replaces the United States Mission's note HC-83(S)-04 of July 9, 2004.

The United States Mission wishes to inform the United Nations Secretariat and related agencies regarding the requirements for the employment of domestic employees. Every prospective employer (United Nations Secretariat and/or related agencies staff member) is required to offer a written contract of employment to the domestic employee. The contract must be in English and, if the domestic employee does not understand English, in a second language that he or she understands. Two copies of the contract should be signed by both parties with one for the employer and one for the domestic employee.

A domestic employee applying for a G-5 visa to enter the United States must provide a copy of the signed contract with his or her visa application. United Nations Secretariat and/or related agencies staff members who wish to hire domestic employees who are already in the United States on G-5 visas

are also required to offer a written contract of employment. Further, when a request for an extension of stay for a G-5 visa is made, a copy of the current and/or revised contract should accompany the request sent to the United States Mission.

The employment contract is required to assist the employer and the employee in establishing a good faith employment relationship. Both parties to the contract are expected to carry out the terms of the contract. The contract should include the following:

--**Description of duties.** The contract should describe the work to be performed, e.g., housekeeping, cooking, health and/or child care, and must also include a statement that the domestic employee shall work only for the employer who signed the contract.

--**Hours of work.** The contract should state the normal working hours and number of hours per week. It is generally expected that a minimum of 35-40 hours per week of paid employment will be provided. It should also state that the domestic employee will be provided a minimum of at least one full day off each week. The contract should also indicate whether the domestic employee will be provided paid holidays, sick days and vacation days.

--**Minimum or prevailing wage.** The contract shall state the hourly wage to be paid the domestic employee, provided that the rate will be the greater of the minimum wage under federal and state law or the prevailing wage for all working hours. The contract should state that wages will be paid to the domestic employee either on a weekly or biweekly basis and state what deductions are to be taken from wages. If any deduction is taken for meals or lodging, it must be no more than is reasonable.

--**Transportation to and from the United States.** The contract should state that the domestic employee will be provided with transportation to and from the United States.

--**Other terms of employment.** The contract must include a statement that the passport, visa, copy of the contract and other personal property of the domestic employee will not be withheld by the United Nations Secretariat and/or related United Nations agencies staff member for any reason. Further, it should include a statement that the domestic employee's presence in the United Nations Secretariat and/or related United Nations staff member's residence will not be required except during working hours. The contract may state other agreed-upon terms of employment, if any, provided they are fully consistent with United States law. Any modification to the contract must be in writing.

--**Tax payments.** All United Nations employees, except those in diplomatic status in accordance with Article V, Section 19 of the Convention on the Privileges and Immunities of the United Nations, must obtain social security cards for their domestic employees and pay the employer's share of social security taxes and Medicare and any other required taxes or contributions, including federal and state unemployment insurance and workers compensation insurance, on all wages actually paid, which shall not be less than the applicable minimum or prevailing wage. The contract shall also state that, unless

paid by the United Nations employee, the domestic employee must pay applicable federal and state income taxes on all wages and the employee's share of social security. Domestic employees from countries with which the United States has totalization/social security agreements may not be required to participate in the United States Social Security program. A list of those countries appears in an annex to this note.

--**Record keeping.** To avoid possible misunderstanding, the employer will maintain for the duration of actual employment plus three years, the following records: 1) the employee's full name, date and place of birth, gender and occupation; 2) the employee's home address and telephone number in the United States; 3) a record of the number of hours worked daily and weekly; and 4) a copy of a check or dated receipt covering each pay period, including a record of any deduction made.

The United States Mission also wishes to remind the United Nations Secretariat and/or related United Nations agencies staff members that all personal employees must be notified to their respective executive offices upon arrival and upon departure (including abandonment) of employment, or transfer to a new employer. Note: a G-5 domestic employee may not work for more than one household contemporaneously.

If an employer seeks to replace an employee or add to his or her existing domestic staff, the G-5 visa may be denied if there is reason to believe that the employer failed to fulfill his or her obligations to a former or current employee, such as to pay a fair wage. Domestic employees will be provided with a copy of the enclosed information sheet when obtaining their visas. The information sheet informs them in general terms of their customary and legal rights while in the United States and also provides a complaint number, 1-888-428-7581, in the event the domestic employee believes his or her rights are not being observed.

The United States Mission to the United Nations avails itself of this opportunity to renew to the United Nations Secretariat and related agencies the assurances of its highest consideration.

Enclosure: annex and information sheet

Annex - Nations entered into Totalization Agreements with the United States as of October 2004.

Australia

Austria

Belgium

Canada

Chile

Finland

France

Germany

Greece

Ireland

Italy

Luxembourg

The Kingdom of the Netherlands

Norway

Portugal

The Republic of Korea

Spain

Sweden

Switzerland

The United Kingdom of Great Britain and Northern Ireland

To recipients of A3 and G5 visas:

You have received an A3 or G5 visa as an attendant or personal employee of an official or other employee of a diplomatic or consular mission or international organization.

You and your employer have written an employment contract, which is considered by the United States to be a true statement of your terms of employment. Among the terms of the contract are the following:

- ❖ **This contract provides for you to be paid at least the minimum or prevailing wage, whichever is greater, for every hour you work. The prevailing wage in the New York metropolitan area is currently approximately \$9.47* an hour.**
- ❖ **When not working, you cannot be required by your employer to remain in your employer's home or at your place of employment.**
- ❖ **Your passport must always be available to you.**

Employers should honor all provisions of the contract, including provisions for days off and regular payment. You should keep a copy of this contract.

When you are in the United States, you should be treated fairly and lawfully. If you are to live in the house of your employer, you should be provided with living and working conditions that are within the prevailing standards of the United States.

The laws of the United States and the individual states may give you additional rights, including protection from abuse, that may not have been written in the contract that you signed. These rights are yours and cannot be denied to you for any reason.

If, after you have arrived in the United States, you believe that these rights are not being observed, you may seek assistance by calling 1-888-428-7581. For assistance 24 hours a day, you may call 1-888-373-7888.

You may wish to keep this message with your passport or with your other important documents (such as your employment contract) while you are in the United States.

* Updated as of 6/27/08