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When replying please quote Ref. No. and date

MINISTRY OF FOREIGN AFFAIRS

MFA 231/28A

Ref. No.

The Ministry of Foreign Affairs of the Republic of Kenya presents its compliments to the Embassy of the United States of America and has the honour to refer to the Embassy's note No. 656 of 21st May, 2007 concerning the revised text of the draft Bilateral Work Agreement. The Ministry has reviewed the revised text and propose the following revised text;

The Government of the Republic of Kenya and the Government of the United States of America being parties to the Vienna Convention on Diplomatic Relations of 1961 and the Vienna Convention on Consular Relations of 1963 have agreed that, on a reciprocal basis, dependants of the employees of the Government of Kenya assigned to official duty in any Kenya Mission in the United States and the dependants of the employees of the United States Government assigned to official duty in the United States Mission in Kenya, be authorized to be employed in Kenya and the United States.

For the purposes of this agreement, it is understood that employees shall be those assigned to official duty in Kenya and the United States of America as diplomatic agents, consular officers and members of the administrative and technical or service staff, based and accredited to diplomatic missions, consular offices and missions to the United Nations in the respective countries.

For the purposes of this agreement, "Dependants" shall mean:

- Spouses;
- Unmarried children under the age of 21;
- Unmarried sons or daughters under the age of 23 who are in full-time attendance as students at post-secondary educational institutions; and
- Unmarried sons or daughters who are physically or mentally disabled and cannot adequately care for themselves.

In the case of dependants who seek employment in the Republic of Kenya, an official request shall be made by the United States Embassy in Kenya to the Ministry of Foreign Affairs of the Republic of Kenya, which, after verification that the person is a dependant of an official employee of the Government of the United States, and prompt processing of the official request, shall inform the Embassy of the United States of America that the dependant may accept employment.

In the case of dependants of embassy or consular employees who seek employment in the United States, an official request shall be made by the Embassy of Kenya to the Office of Protocol in the Department of State. For dependants of personnel at the Kenya Mission to the United Nations, in New York, an official request shall be made to the United States Mission to the United Nations. Upon verification that the person is a dependant of an official employee of the Government of Kenya, and prompt processing of the official request, the Government of the United States shall inform the Embassy or mission to the United Nations that the dependant may accept employment.

The parties further agree that, this agreement imposes no restrictions as to the kind of employment a dependant may take up in the receiving state.

The Government of the Republic of Kenya and the Government of the United States of America confirm that dependants who obtain employment under this agreement and who have immunity from the jurisdiction of the receiving state in accordance with Article 31 of the Vienna Convention on Diplomatic Relations, or Article 43 of the Vienna Convention on Consular Relations or any other international agreement, enjoy no immunity from civil and administrative jurisdiction with respect to an action relating to any employment-related activity. Such dependants are also liable for payment of income and social security taxes on any remuneration received as a result of employment in the receiving state.

If the proposals contained herein are acceptable to the Government of the United States of America, this text shall constitute an agreement between the two governments which shall enter into force on the date of the Government of United States of America's reply.

This agreement shall remain in force for a period of five (5) years after which it shall be subject to review by both parties. The agreement may be amended or extended by mutual written agreement of the parties.

The Ministry of Foreign Affairs of the Republic of Kenya avails itself of this opportunity to renew to the Embassy of the United States of America the assurance of its highest consideration.

NAIROBI – 9TH JULY, 2007

Embassy of the United States of America
NAIROBI



Diplomatic Note No. 877

July 13, 2007

Subject: Proposed Bilateral Work Agreement

Drafted: MGT. William R. Gaines

Cleared: Charge Larry Andre

Distribution:

AMB, DCM, RSO, POL, ECON, MGT, PROTOCOL

MFA Chief or Protocol (original and 1 copy)

MFA Head of Americas Division 1 copy

No. 877

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Republic of Kenya and has the honor to refer to the Ministry's note verbale no. MFA 231/28A of 09 July, 2007, relative to a proposed Bilateral Work Agreement. The proposed agreement sets the terms and conditions for dependents of diplomatic employees of both countries assigned to diplomatic establishments in the United States and Kenya to receive work permits, allowing such dependents to accept employment in the receiving country.

The Embassy is pleased to inform the Ministry that, after due consideration, the Government of the United States finds the Ministry's draft text of the agreement acceptable, and poses no objections to the text as phrased in the Ministry's referenced note. As agreed to by both sides in the text, acceptance of the Government of Kenya's text by the Government of the United States thereby puts the Bilateral Work Agreement into force with immediate effect.

With respect to fees, the Government of the United States confirms its strong preference that both countries

DIPLOMATIC NOTE

waive all fees or bonds connected with the issuance of work permits to diplomatic dependents, such that work permits would be delivered gratis by both countries. Should one country choose to charge fees or bonds in this regard, however, the other country, in the interest of reciprocity, would have the right to attach similar fees or bonds in the same amount to the issuance of work permits to diplomatic dependents of the other country.

The Government of the United States of America congratulates the Government of the Republic of Kenya on the successful conclusion of this agreement, and thanks the Ministry for its helpful cooperation in bringing this effort to fruition. The Embassy looks forward to working with the Ministry on implementation of this agreement to the benefit of the diplomatic dependents of both countries.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Republic of Kenya the assurance of its highest consideration.



The Embassy of the United States of America
Nairobi, July 13, 2007