

**Note verbale to the Permanent Representative of a Member State to the
United Nations, concerning delays in the issuance of visas for officials and other
immigration restrictions**

PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS AND ITS SUBSIDIARY ORGANS, THEIR OFFICIALS AND EXPERTS ON MISSIONS—CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS, 1946—VISA APPLICATIONS BY HOLDERS OF UNITED NATIONS *LAISSEZ-PASSER* ARE TO BE DEALT WITH AS SPEEDILY AS POSSIBLE WHEN TRAVELLING ON BUSINESS—SIMILAR VISA FACILITIES SHALL BE ACCORDED TO EXPERTS AND OTHER PERSONS TRAVELLING ON BUSINESS FOR THE ORGANIZATION—UNITED NATIONS OFFICIALS ARE EXEMPT FROM IMMIGRATION RESTRICTIONS AND ALIEN REGISTRATION, INCLUDING RESIDENT PERMITS—REQUIREMENT FOR PROMPT ISSUANCE OF VISAS, LICENCES OR PERMITS UNDER THE UNDP STANDARD BASIC ASSISTANCE AGREEMENT (SBAA), AND THE UNICEF BASIC COOPERATION AGREEMENT (BCA)—DELAYS IN THE ISSUANCE OF VISAS ARE CONTRARY TO THE PROVISIONS OF THE 1946 CONVENTION, THE BCA AND THE SBAA—UNITED NATIONS OFFICIALS HAVE THE RIGHT TO IMPORT THEIR PERSONAL EFFECTS FREE OF DUTY AT THE TIME OF FIRST TAKING UP THEIR POST IN THE COUNTRY—OBLIGATION TO GIVE EFFECT TO THE TERMS OF THE CONVENTION—INTERPRETATION OF THE CONVENTION IN LIGHT OF THE UNDERLYING PRINCIPLES OF THE CHARTER OF THE UNITED NATIONS

The United Nations Legal Counsel presents his compliments to the Permanent Representative of [Member State] to the United Nations and has the honour to refer to a note verbale dated 5 February 2003 from the Ministry for Foreign Affairs of the Government of [Member State] to the United Nations Resident Coordinator in [City] in which the Ministry for Foreign Affairs takes the position that all outstanding issues concerning the issuance of visas and residence permits have been resolved. On behalf of the United Nations subsidiary organs operating in [Member State], the Legal Counsel regrets to inform the Permanent Representative of [Member State] to the United Nations that the difficulties and inconveniences being experienced by officials and experts on missions of the United Nations and its subsidiary organs, when being transferred to, or participating in missions to [Member State] do not arise individually for case-by-case solutions but rather systematically for resolution in accordance with the Convention on the Privileges and Immunities of the United Nations.* In particular, the Legal Counsel is concerned that the issuance of entry and re-entry visas has become an increasingly, and inordinately, lengthy process and that such officials and experts are required to obtain resident permits in order to, *inter alia*, clear their personal effects from customs. The aforementioned delays and requirements not only impose personal difficulties and inconvenience for the staff but also risks compromising the Organization's ability to pursue its programmes of assistance and cooperation with the Government of [Member State].

The United Nations and its subsidiary organs, including the United Nations Development Programme (UNDP) and the United Nations Children's Fund (UNICEF), and their officials and experts on missions, are entitled to the privileges and immunities provided for in the Convention on the Privileges and Immunities of the United Nations (hereinafter, the "Convention"), to which [Member State] has been a party since [date] without reservation.

With respect to the delays in the issuance of visas, the Legal Counsel has the honour to refer to article VII, section 25 of the Convention which provides that "applications for

* United Nations, *Treaty Series*, vol. 1, p. 15 and vol. 90, p. 327 (corrigendum to vol. 1).

visas (where required) from the holders of United Nations *laissez-passer*, when accompanied by a certificate that they are travelling on the business of the United Nations, shall be dealt with as speedily as possible”. Section 26 further provides that “similar facilities to those specified in section 25 shall be accorded to experts and other persons who, though not the holders of United Nations *laissez-passer*, have a certificate that they are travelling on the business of the United Nations”. The Legal Counsel wishes to assure the Permanent Representative of [Member State] that where possible, the Organisation will take appropriate steps to seek the required visas for its officials and experts on mission well in advance of the travel dates.

In connection with the requirement that United Nations officials obtain resident permits, the Government of [Member State] is reminded that pursuant to article V, section 18(d) of the Convention, officials of the United Nations, including UNDP and UNICEF, “shall be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration”. In accordance with article X of the UNDP Standard Basic Assistance Agreement concluded on [date] (hereinafter, the “SBAA”), “the Government shall take any measures which may be necessary to exempt the UNDP, its Executing Agencies, their experts and other persons performing services on their behalf from regulations or other legal provisions which may interfere with operations under this Agreement, and shall grant them such other facilities as may be necessary for the speedy and efficient execution of UNDP assistance. It shall, in particular, grant them... (b) prompt issuance without cost of necessary visas, licenses or permits”. Article VI(a) of the UNICEF Basic Cooperation Agreement concluded on [date] (hereinafter, the “BCA”) similarly provides that UNICEF officials, experts on mission and persons performing services for UNICEF shall be entitled “to prompt clearance and issuance, free of charge, of visas, licences or permits, where required.”

Based on the foregoing, delays in the issuance of visas are contrary to the provisions of the SBAA, the BCA and Convention. Delays in the issuance of resident permits, from which United Nations officials should in any event be exempt in accordance with section 18(d) of the Convention, are contrary to the provisions of articles X and VI of the SBAA and the BCA respectively.

Finally, with respect to the impediments in obtaining clearance of the shipment of personal effects, the Legal Counsel has the honour to refer to article V, section 18(g) of the Convention, pursuant to which officials of the United Nations, including UNDP and UNICEF, “have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question”.

Article X(1) of the SBAA further elaborates that officials and persons performing missions shall be granted “(f) any permits necessary for the importation of equipment, materials and supplies, and for their subsequent exportation; (g) any permits necessary for importation of property belonging to and intended for the personal use or consumption of officials of the UNDP, its Executing Agencies, or other persons performing services on their behalf, and for the subsequent exportation of such property; and (h) prompt release from customs of the items mentioned in sub-paragraphs (f) and (g) above. Finally, article XIII(1)(g) of the BCA confirms that UNICEF officials, experts on mission and persons performing services for UNICEF “have the right to import free of duty their furniture, personal effects and all household appliances, at the time of first taking up their post in the host country”.

In accordance with section 34 of the Convention, the Government of [Member State] has a legal obligation “to be in a position under its own law to give effect to the terms of this Convention”. Any interpretation of the provisions of the Convention must be carried out within the spirit of the underlying principles of the Charter of the United Nations, and in particular Article 105 thereof, which provides that the Organisation shall enjoy such privileges and immunities as are necessary for the fulfilment of its purposes. The above-mentioned delays and requirements impede the ability of the United Nations and its subsidiary organs from carrying out their activities efficiently and therefore constitute an impediment to the fulfilment of their purposes.

The Legal Counsel would be grateful if the Permanent Representative of [Member State] to the United Nations would kindly request the Ministry for Foreign Affairs of the Government of [Member State] to take all necessary steps to ensure respect for the foregoing privileges and immunities of United Nations officials in accordance with its obligations under the SBAA, the BCA, the Convention and the Charter.

The Legal Counsel avails himself of this opportunity to renew to the Permanent Representative of [Member State] to the United Nations the assurances of his highest consideration.

25 February 2003