

7 FAM 1000 Appendix A (Old 7 FAM 900 - Protection of Foreign Interests)

(TL:CON-22; 11-3-86)

This appendix contains the text of old Chapter 7 FAM 900 , Protection of Foreign Interests. This chapter has not been updated. The old (and still valid) material is being issued in this format to alleviate some of the confusion caused by having old and new 7 FAM chapter numbers still in existence. When a new chapter 1000 is issued, this appendix will be deleted. Until then, continue to refer to this appendix.

7 FAM 900 PROTECTION OF FOREIGN INTERESTS

7 FAM 910 INTRODUCTION

7 FAM 911 PROTECTION DEFINED

(TL:CON-1; 12-20-61)

The protection of foreign interests involves essentially the extension of friendly services on the part of one power (generally known as the “protecting power”) in behalf of nationals and other interests of a second power (generally known as the “protected power”) within territory subject to the sovereignty or control of a third power (for convenience, referred to in these regulations as the “local power”).

7 FAM 912 TYPES OF PROTECTION

A distinction is frequently made between the exercise of informal good offices and the assumption of a more formal representation of interests.

7 FAM 913 FORMAL PROTECTION

7 FAM 913.1 Powers at Peace

A power at peace with the local power may request another power formally to protect its interests when it has not established, or has severed, or withdrawn fully or partially from, diplomatic or consular relations with the local power.

7 FAM 913.2 Belligerent Powers

A power at war with the local power may request a neutral power to protect its interests within the territory of the local power. Under these conditions, responsible officers of the protecting power must exercise special care not to jeopardize the neutrality of their own government in the process of protecting the interests of the belligerent power.

7 FAM 914 INFORMAL GOOD OFFICES

A power, which has no reason for maintaining formal or continuing diplomatic or consular representation with a local power, may request another power to extend informal good offices by providing diplomatic and consular services on behalf of the protected power within the territory of the local power. In actual practice distinguishing between formal protection and informal good offices is difficult. Both may involve fairly comprehensive service or be limited to occasional visa and invoice services. When the personnel of a post is limited or where the political situation in a certain area makes formal protection infeasible, the Department sometimes limits its protection facilities to informal good offices. Both require the formal or tacit acquiescence of the local power.

7 FAM 915 JURISDICTION OF PROTECTING POWER

Protection of foreign interests may be exercised in a greater or lesser degree in accordance with the request made by the protected government and may include full diplomatic and consular representation on a country-wide or single consular district basis, or may be limited to the performance of one or more services. If protection is exercised on a country-wide basis, it shall be centralized to the extent practicable in the principal post.

7 FAM 916 GOVERNING RULES AND PROCEDURES

7 FAM 916.1 Establishment

Rules and procedures governing the representation and protection of foreign interests are established by the protecting power, by arrangement between the protecting and protected powers, by any limitations upon the arrangement established by the local power; and by information and additional requests from the protecting power regarding services performed on its behalf.

7 FAM 916.2 Reference Sources

The most convenient reference sources for rules and procedures governing overseas posts in protecting the interests of foreign owners are as follows:

a. Chapter 7 FAM 900 , Volume 7 of the Foreign Affairs Manual, on "Protecting Foreign Interests," containing the continuing, general instructions issued by the Department.

b. The reference book, entitled, "The Protection of Foreign Interests" by William McHenry Franklin, containing a general summary of protection practice as developed historically by this country and by other countries.

c. Foreign Affairs Manual Circulars, circular instructions, and circular airgrams containing information or instructions of limited application or of a transitory nature which relate to the protection of foreign interests.

7 FAM 916.3 Citation of Reference Sources

Foreign Services offices shall be governed by the following rules in citing reference sources:

a. Sections of the Foreign Affairs Manual, Volume 7, relating to the “Protection of Foreign Interests” shall be cited as indicated on page iii(2) of Volume 7 of the Foreign Affairs Manual.

b. The reference book, “Protection of Foreign Interests,” shall be cited by title, page, and paragraph.

c. Foreign Affairs Manual Circulars shall be cited by series number, date and title; numbered circulars and airgrams by number, date and title.

7 FAM 920 REPRESENTATION OF PEACEFUL POWERS BY UNITED STATES

7 FAM 921 ARRANGING FOR REPRESENTATION

7 FAM 921.1 Customary Procedure

As a general rule, a peaceful power requests the United States to assume protection of its interests in a specified area by addressing a formal communication to this effect through the customary diplomatic channel. If the United States accedes to the request, the Department issues appropriate instructions to the overseas posts concerned. These instructions normally will include copies of the agreement or exchange of communications in which provision may have been made for the disposal of classified property and files in the event of an emergency relinquishment to a third power of both the United States' and the foreign power's interests. (See sections 7 FAM 925 and 7 FAM 960 .)

7 FAM 921.2 Direct Request to Posts Aboard

Sometimes, a diplomatic or consular representation of a foreign power requests a post to undertake protection of the interests of the foreign power. In such case, the post shall suggest, in replying to the request, that the foreign power address the request to the United States Government through the customary diplomatic channel. At the same time, the post shall report the matter fully by despatch to the Department including the following information in the report:

a. The form of protection requested, i.e., good offices, formal representation, or some specialized type of protection such as invoice services.

b. The specific area in which protection would be exercised and the approximate volume and nature of protection work involved.

c. The origin of the request (whether made at the direction of the power desiring protection or on the initiative of the diplomatic or consular representative making the request).

d. Opinion of the post regarding the advantages or disadvantages of complying with the protection request, emphasizing in particular any political aspects of the local area which might make the protection in question inadvisable to the Department. Upon receipt of the report, the Department, if convinced of the urgency of the situation, will usually authorize the provisional exercise of protection pending the receipt of a formal request from the protected power.

7 FAM 921.3 Emergency Procedure

Overseas posts shall not assume protection of a foreign interest without prior authorization from the Department except in extreme emergencies. When protection is assumed in an emergency, the post concerned shall follow the procedure set forth in section 7 FAM 0921.1 except that the report to the Department shall be submitted by telegram and shall explain the nature of the emergency which justified the assumption of protection without prior authorization from the Department.

7 FAM 922 PROCEDURE FOR ASSUMING PROTECTION

7 FAM 922.1 Notification to Local Power

An overseas post shall promptly notify the local power through the American diplomatic mission when it assumes protection of a foreign interest. The local power is within its rights in granting or withholding agreement to such assumption of protection, but in the absence of specific objection, its tacit acquiescence may usually be regarded as sufficient assent without formal agreement.

7 FAM 922.2 Report to Department

Unless instructions to the contrary are received, an overseas post shall telegraph the date on which it assumes protection of a foreign interest and the date on which the appropriate local power was notified. Copies of all relevant communications in this connection shall be sent to the Department by despatch as soon as possible.

7 FAM 923 JURISDICTION OF OVERSEAS POSTS

7 FAM 923.1 Jurisdiction Attaches to Office

Jurisdiction over the protection of foreign interests attaches to the post rather than to any officer assigned to the post. Once a post has been authorized by the Department to undertake the protection of a foreign interest, each succeeding officer assigned to this work shall assume the duties which the function involves without further authorization from the Department.

7 FAM 923.2 Area and Scope of Jurisdiction

The area and scope of jurisdiction exercised by a post in the protection of a foreign interest is determined in each instance by the arrangement between the United States Government and the protected power. However, if the protected power requests diplomatic representation in the absence of a diplomatic mission in the territory of the local power, but maintains consular representation in such territory, the American mission shall not undertake to exercise any jurisdiction over the consular offices of the protected power. Conversely, if the protected power maintains a diplomatic mission at the seat of government of the local power, but requests consular representation by American consular offices in all or part of the territory of the local power, the United States Government will not agree to any arrangement whereby the American consular offices concerned are subject to the supervision by the diplomatic mission of the protected power.

7 FAM 924 RELATION OF AMERICAN OFFICERS TO PROTECTED POWER

7 FAM 924.1 Responsibilities in General

An officer of an overseas post is never accredited as a diplomatic or consular officer of a protected power. When such an officer is assigned the function of protecting the interests of another government, he is answerable only to the Government of the United States for the manner in which he discharges this function. Since his services are made available to the protected power by the United States Government solely as a matter of courtesy, the protected power is not expected to hold either the officer or the United States Government responsible for services performed on its behalf. An officer protecting the interests of a foreign power shall report by despatch to and receive his instructions from the Government of the United States, which will communicate any reports received to the protected power and ascertain the wishes of such power regarding services to be performed on its behalf.

7 FAM 924.2 Restrictions on Actions

In the course of protecting the interests of a foreign power, an officer of an overseas post shall not:

- a. Perform any duties which involves the acceptance of an office.
- b. Display the coat-of-arms or the flag of the protected power or employ its seal or the seal of any of its diplomatic or consular offices.
- c. Execute any services or perform any duties on behalf of the protected power which might be detrimental to American trade or other American interests.
- d. Perform on behalf of the national of the protected powers any services of a nature which might not be performed under the established policy of the United States under identical conditions.

- e. Communicate directly on protection matters with the protected power.

7 FAM 925 PROPERTY AND ARCHIVES OF PROTECTED POWER

7 FAM 925.1 Responsibility of Protecting Officer

An officer at an overseas post charged with the protection of the interests of a foreign power is responsible for the custody, care and conservation of the diplomatic and consular property of the protected power in his area of jurisdiction. He will be held strictly accountable for all property and funds belonging to the protected power which are taken over by him in the course of protecting its interests.

7 FAM 925.2 Protective Measures

When an officer of a protected power is taken into custody by an officer at an overseas post, he shall promptly notify the local authorities of the location of all property of the protected power under the protection of the United States Government and shall affix to the diplomatic and consular buildings and to possessions left behind by members of the diplomatic and consular staffs of the protected power, a notice under the seal of the American mission or consular office stating that the property is under the protection of the Government of the United States of America. If the protected power has no diplomatic or consular building in which the archives and other property can be stored, the responsible American officer concerned shall make a survey to determine the possibility of storing such property, suitably packed, in a reliable commercial warehouse or other repository. Property of a protected power shall not be stored on the premises of an overseas post without the specific authorization of the Department.

7 FAM 925.3 Inventory and Receipts for Property

When property of a protected power is taken into custody by an officer at an overseas post, he shall prepare an itemized inventory of such property in quintuplicate. Such inventory shall be signed by the officer assuming protection and the outgoing representative of the protected power. Three copies of the signed inventory shall be forwarded to the Department by despatch, one copy being marked for the protected power. Two copies shall be retained in the files of the post concerned, one copy for use when protection of property is relinquished. In addition, the officer assuming protection shall give the outgoing official of the protected power receipts for the property taken into custody, and the American officer, relinquishing charge of such property shall take receipt therefor from the person to whom the property is turned over.

7 FAM 925.4 Custodial Agreement

During the process of arranging for the representation of a foreign power's interests, an agreement may have been reached concerning the disposal of classified material in the event of an emergency relinquishment to a third party of both the United States' and the foreign power's interests (see sections 7 FAM 921 , 7 FAM 929 and 7 FAM 960). Such an agreement should provide for classification of such files or property, indicate which classifications should be returned to the Department, surrendered to the third power, or destroyed. The agreement also should describe the circumstances under which each measure should be taken.

7 FAM 926 COMMUNICATIONS RELATING TO PROTECTION

7 FAM 926.1 Channeling Communications

An officer of the overseas post charged with protecting the interests of a foreign government shall not address any communications directly to that government. His communications shall be routed through the Department and the American diplomatic mission near the protected government. Similarly, communications from the protected power to the protecting American officer shall be routed through the American diplomatic mission and the Department. The Department may, in its discretion, permit direct communication between the protecting American officer and the American mission in the protected country in exceptionally urgent cases or in routine matters where the volume of work is heavy, e.g., correspondence relating to visa applications on behalf of the Government of the Philippines.

7 FAM 926.2 Identification of Correspondence

All communications addressed to the Department regarding protection of foreign interests should bear in the title or the first line an identifying phrase, "(Name of Country) interests" in order to facilitate the routing of such correspondence in the Department.

7 FAM 926.3 Signing

Officers at overseas posts protecting the interests of other governments shall sign: "_____, American _____ in charge of the interests of _____."

7 FAM 927 FUNDS AND PERSONNEL FOR PROTECTION WORK

7 FAM 927.1 Funds

The United States Government does not advance funds to finance the protection of the interests of foreign governments. An officer taking over the interests of a foreign government shall, therefore, report to the Department by despatch promptly whether he has received funds to cover his necessary disbursements in connection with this work and, if not, the funds he will require for this purpose itemized by major activity, during the balance of the current fiscal year. The Department will then request the protected power for a deposit of sufficient funds to cover this estimate. (For procedure regarding deposit of trust funds see 4 FAM 324 .)

7 FAM 927.2 Personnel

If the volume of work in connection with protecting the interests of a foreign government warrants the employment of special personnel for the purpose or the continued employment of subordinate personnel previously serving the protected power in the same capacity, the overseas post concerned shall promptly submit recommendations by despatch to the Department. All such employees shall be employed on a temporary basis. They shall be paid from the funds of the protected power previously deposited with the Department or with the post. The post shall maintain separate personnel records on such employees, using for this purpose the same forms used for overseas employees of the Department with appropriate amendments. The use of retirement forms will not, of course, be necessary, since such employees are not eligible for retirement. The United States Government does not charge protected powers for the services of commissioned officers of this Government or of regular employees who are recompensed from funds of this Government.

7 FAM 928 SERVICES ON BEHALF OF PROTECTED POWERS

7 FAM 928.1 Interpretation of Laws and Regulations of Protected Power

Protecting American officers have not authority to interpret or apply the laws and regulations of the protected power governing the performance of services on behalf of such power. The protected power is responsible for furnishing through prescribed channels (see section 7 FAM 926.1) for the information and instruction of protecting American officers, statements regarding the general principles applicable to the different categories of services performed on behalf of the protected power, or specific instructions regarding individual cases which constitute exceptions to these principles.

7 FAM 928.2 Presentment of Claims or Protests

An overseas post shall not present to the authorities of the local power a formal claim or protest on behalf of a protected power, except when the Department transmits to the post concerned verbatim and without alteration a document prepared by the protected power and clearly identifiable as its instrument, which sets forth the claim or protest. The communication transmitting such a document shall clearly state that the United States Government is acting only as a transmitting medium and shall contain no comment on the subject matter of the document.

7 FAM 928.3 Passport Services

An American protecting officer shall perform passport services on behalf of a protected power strictly in accordance with the general instructions issued by such power for the guidance of the protecting officer. Passports may be issued on behalf of the protected power only when official passport blanks provided by that power are available for the purpose, and at the specific request of the protected power. If the officer has any reason to doubt the bona fides of an application for passport services or an application or interpretation of the laws and regulations of the protected power not covered in the general instructions of that power, he shall refer the application to the protected power through the Department. In fact, in most instances supplies of passport blanks are not provided, so this procedure is followed even when there is no reason to doubt the bona fides of an applicant. Unless general instructions are given to the contrary, it is normal practice to issue passports only on the specific authorization of the protected power, in each case, transmitted through the Department. When passport application forms of the protected power are not available, appropriately amended American passport application forms may be used; or, if justified by the volume of work, especially devised forms prepared at the expense of the protected power may be used. The signed originals of passport applications shall be forwarded to the Department for transmission through the prescribed channels to the Foreign Office of the protected power. Copies of passport applications shall be made for both the regular and the foreign-interests files of the office to which the application is made and for the files of the American mission.

7 FAM 928.4 Visa Services

7 FAM 928.4-1 Authority for Performance

An American protecting officer shall perform visa services for a protected power only when such services are specifically requested, usually in individual cases, by that power through the Department.

7 FAM 928.4-2 Issuance Procedure

Except when otherwise specified, no set formula is used in the issuance of a foreign visa. The following notation is the one most frequently used by overseas posts: "(Immigration, Visitor, Transit, etc.) visa issued on (date) by authority of (cite date and nature of communication to the Department of State from the protected power, e.g., Memorandum of _____ from the Haitian Embassy in Washington to the Department of State, or not of _____ from the Haitian Foreign Office to the American Embassy at Port-au-Prince.)" The signature of the American consular officer should be in accordance with section 7 FAM 926.3 .

7 FAM 928.4-3 Report of Visas Issued

In order for the Department to measure accurately the volume of foreign visa work at each post, all visas issued on behalf of the protected powers shall be reported on the respective Record of Fees. (See section 7 FAM 928.7-1 .)

7 FAM 928.5 Notarial Services

In accordance with the usual policy of the U.S. Government, notarial services performed by diplomatic or consular officers of the United States in connection with the protection of foreign interests will be considered to be United States services. The regulations and instructions, issued by the Department, governing the performance of notarial services for the U.S. Government or its nationals shall govern the performance of notarial services for the protected power or its nationals except when such regulations and instructions are clearly inapplicable. The signature on notarial documents executed on behalf of the protected power shall accord with that prescribed in section 7 FAM 926.3 . Fees for these services shall be charged in accordance with the provisions of section 7 FAM 928.7-2 .

7 FAM 928.6 Invoice Services

An American consular officer may certify foreign consular invoice forms when he is charged with:

- (a) full representation of the interests of a foreign country;
- (b) the performance of consular services for a foreign government; or

(c) the performance of informal good offices in behalf of a foreign government with a specific authorization from the Department to perform consular invoice services for that government. The certification of the usually required 4 or 5 copies of a foreign consular invoice, in accordance with section 7 FAM 928.7-1 no fee shall be collected for this service. Additional copies may be certified without charge, as an invoice service. A consular officer may in his discretion, in the absence of a consular officer of the nation to which a shipment is destined, administer an oath to a foreign shipper on a foreign invoice form and charge a fee of \$2.00 for this service, as a notarial service only, when the consular officer concerned is not engaged in any degree of protection of that nation's interests.

7 FAM 928.7 Fee Collections and Foreign Fee Stamps

7 FAM 928.7-1 Gratis Performance of Services Other Than Notarial Services

No fees shall be charged for services other than notarial services performed on behalf of a protected power. If service involves a document in connection with the acceptance of which the protected power may assess a fee, the following notation should be made on it:

“Performed gratis, subject to interested party’s settlement with protected government of a fee prescribed by its tariff.” A separate series of numbers for these services and a separate report on Form FS-101, Record of Fees, headed, “Gratis Services for the Government of _____,” shall be maintained for each protected power. Each of these services shall be numbered from the appropriate series of numbers and recorded on the appropriate report. Two extra copies of each such Record of Fees from shall be submitted to the Department under separate cover marked, “For the attention of the Office of Special Consular Services,” one of which will be forwarded to the protected power by the Department.

7 FAM 928.7-2 Fees Collectible for Notarial Services

Fees established by the Tariff of Foreign Service Fees shall be charged for notarial services performed on behalf of a protected power or its nationals (see section 7 FAM 928.5). All fees collected for notarial services on behalf of such power shall be paid into the U.S. Treasury. The services shall be given a number from the regular series and recorded in the regular Record of Fees. In no case shall these notarial services be entered in the Record of Fees referred to in section 7 FAM 928.7-1 .

7 FAM 928.7-3 Fee Stamps of Protected Power

The fee stamps of the protected power shall never be used or canceled in connection with the performance of services on behalf of that power.

7 FAM 929 RELINQUISHING PROTECTION

7 FAM 929.1 Terminating Representation Agreement

As a general rule, the protected government requests the termination of its arrangement with the U.S. Government for the protection of its interests and the Department issues an appropriate authorization to the posts concerned. However, on occasion, the local power requests termination of the arrangement.

7 FAM 929.2 Recommending Persons to assume Protection

American protecting officers charged with the protection of foreign interests shall not recommend persons to take over this work. However, such officers shall submit a report by despatch regarding the desirability of persons under consideration for this work when instructed to do so by the Department. The report shall be forwarded to the Department for use in its discretion.

7 FAM 929.3 Turning Over Foreign Interests Files

When an American protecting officer relinquishes the protection of the interests of another government, whenever possible, he shall turn over at the time of relinquishment to the appropriate official the files pertaining to the protected power, except as may have been provided for by previous agreement (see section 7 FAM 925.4) and for the following categories of material which form part of the archives of the U.S. Government:

a. The originals of all communications received from, and the office copies of all communications addressed to, the Foreign Office of the local power or similar communications exchanged between the local authorities and overseas posts not located at the capital city.

b. The originals of all communications received from, and the office copies of all communications addressed to, the Department.

c. The office copies of the accounting forms used in connection with the receipt of funds and expenditures for the protected government (extra copies of these forms may, however, be turned over with the foreign interests files for the information and guidance of the person to whom protection is relinquished).

d. Any matter intended or suitable for the U.S. Government alone.

With reference to the material described in categories a and b above, copies other than office copies, or where necessary and appropriately cleared, paraphrases of this material should be turned over with the foreign interests files whenever this material relates to the interests of the protected power.

7 FAM 929.4 Relinquishing Property of Protected Power

At the same time that other functions of protection are relinquished, property of the protected power shall be turned over to the appropriate official and receipts obtained. (See section 7 FAM 925.3 .)

7 FAM 929.5 Reporting to the Department

The responsible post shall notify the Department promptly the date on which it relinquishes the protection of foreign interest and any archives or property of the protected power.

7 FAM 930 REPRESENTATION OF BELLIGERENT POWERS BY THE UNITED STATES

7 FAM 931 GENERAL RULES AND PROCEDURES

In general, the rules and procedures set forth in sections 7 FAM 921 through 7 FAM 929 , governing the protection of interests of peaceful powers by the United States, apply also to the protection of the interests of belligerent powers by the United States.

7 FAM 932 COMMUNICATIONS

Brief person messages to and from nationals of protected belligerent governments may be transmitted at their expense by mail or telegram through the Department of the Foreign Office of the protected country. Written material shall never be transmitted on behalf of belligerent nationals, and personal messages shall never be repeated verbatim. Caution shall be exercised lest communications regarding the protection of foreign interests inadvertently include information of a military or otherwise unneutral character.

7 FAM 933 FUNDS

The Department reserves the right to limit the disbursement of funds on behalf of protected belligerent governments by a post to purposes appropriate to the protection of its interests and consonant with the neutrality of the United States. An American protecting officer responsible for the protection of interests of a belligerent power shall examine carefully all requested payments of funds made on behalf of protected powers. When doubt exists as to the nationality of an applicant for relief or when the examining officer is of the opinion that the protected government might want relief denied, payment of relief may be deferred and a decision by the protected power requested.

7 FAM 940 EXTENSION OF INFORMAL GOOD OFFICES BY THE UNITED STATES

7 FAM 941 GENERAL RULES AND PROCEDURES

In general, the rules and procedures followed in the formal protection cases shall be applied also in those cases where the United States Government extends informal good offices on behalf of a protected power.

7 FAM 942 RELINQUISHMENT OF FILES

When a protected power, on whose behalf Foreign Service posts have been extending good offices on a special basis, establishes diplomatic or consular representation with the local power, the responsible American officers should inform the newly established mission or consular office of any pending cases involving nationals for whom the mission or consular office must assume responsibility. Where necessary, the files pertaining to such cases may be turned over to the new mission or consular office, except those categories mentioned in section 7 FAM 929.3 , which constitute part of the archives of the United States Government.

7 FAM 950 REPRESENTATION OF INTERESTS OF THE UNITED STATES BY THIRD POWERS

7 FAM 951 ARRANGING FOR REPRESENTATION

7 FAM 951.1 Customary Procedure

When the United States, because of strained relations, the imminence of war, or the actual outbreak of hostilities, decides to withdraw its representation from a country, the Department requests a friendly but neutral power to take over the protection of American interests. The Department's request normally is sent through the U.S. mission in the neutral country, either shortly before or immediately after a break in relations. Upon receiving the assent of the protecting power, appropriate instructions are sent to the officers concerned, through the Department's channels, if possible, or through the facilities of the protecting power.

7 FAM 951.2 Direct Request to Protecting Power by Post

Only in extreme emergency is a post permitted to surrender the protection of American interests to a representative of a third power without prior instruction from the Department. No preliminary discussions regarding protection possibilities are to be carried on in the field, except upon specific authorization of the Department. If time does not permit the receipt of instructions from the Department, a post may surrender provisionally the protection of American interests to any agreeable representative of a neutral power in accordance with the provision of similar action in regard to foreign interests as outlined in section 7 FAM 921.3 .

7 FAM 951.3 Responsibility of Principal Officer for Official Property

In the relinquishment of American interest the principal officer is responsible for making all arrangements with the representative of the protecting power for transferring custody of U.S. Government real and personal property, whether in the custody of the Department or other Federal agencies.

7 FAM 951.4 Preparations for Relinquishment of American Interests

When an emergency is anticipated, the principal officer shall endeavor to have the affairs of the office in suitable shape for an orderly relinquishment of the representative of the protecting power. Following are some of the steps to be taken if time permits.

a. Leases for rented Government quarters should be terminated whenever it is possible to obtain suitable space elsewhere for the storage of furniture, furnishings, equipment and archives housed therein. (See section 7 FAM 971.3 .)

b. Real property owned by the U.S. Government, including the furniture, furnishings, and equipment housed therein, should be turned over intact to the protecting power.

c. Personal furniture and belongings of U.S. personnel of the official staff may be stored in U.S. Government-owned or leased quarters, on the responsibility of the owner.

d. U.S. personnel should deliver to the office or officers designated by the principal officer for such purpose information in writing concerning arrangements for liquidation of their personal affairs, including an inventory and instructions as to the disposition to be made of property and other belongings left behind, time permitting. The officer or officers so designated shall be responsible for delivery of this information to the representative of the protecting power.

e. Inventories prepared of Government-owned real and personal property turned over to the protecting power (including privately owned property left behind) should be attached to the protocol de remise at the time of transfer. (See section 7 FAM 952 .)

f. Any surplus funds on hand (including bank accounts) which may be used for the protection of the interests of the U.S. Government shall be delivered to the representative of the protecting power in return for his receipt. Before surrendering funds to the protecting power, if the protection arrangement permits, all local trust fund deposits shall be recorded in the accounts of the disbursing officer or the cashier accounting records, with the supporting individual deposit records showing the purpose for which the deposits were made attached thereto.

g. Memorandums should be prepared to assist the protecting power in effectively continuing the protection of property.

h. All items of property designated for destruction shall be destroyed. The responsibility for destruction of property of any kind must not be delegated to the protecting power.

i. If possible prior to departure, such services as telephone, electric, and gas services which are not required in connection with the protection of U.S. interests should be terminated in writing, and copies of such letters should be left with the protecting power.

j. A list of the names and addresses of all U.S. national remaining in the area should be furnished to the representative of the protecting power.

k. The employment of all local employees, including those who may be recommended for employment by the protecting power, should be terminated effective the date of relinquishment of American interests. If it is not possible for the post to give employees the locally customary period of notice prior to separation, employees should be paid for the time by which the customary notice period was reduced. Employees who are under the U.S. Civil Service Retirement System, and who meet the age and length-of-service requirements (see 3 FAM 676.2 , 3 FAM 676.3 , and 3 FAM 676.4), may retire on immediate annuities. Employees who are not eligible for immediate annuities may either leave their contributions in the system and receive deferred annuities (see 3 FAM 676.5) or withdraw their Civil Service retirement contributions. (See 3 FAM 675.6-1 , 3 FAM 675.6-2 , and 3 FAM 677.2-2 f.) If an employee has no immediate need for his contributions in the Civil Service Retirement and Disability Fund, he should be counseled to defer applying for a refund for a period of several months at which time he may be better able to assess the possibilities of resumption in diplomatic relations and subsequent reemployment by the U.S. Government. The post should handle the paperwork necessary for those who elect to withdraw their contributions (see 3 FAM 675.6 and 4 FAM 477).

l. Severance payments should be made in accordance with the post's severance pay plan for those employees whose services are terminated, except that severance payments should not be made to those employees who will work in the United States' behalf for the protecting power. For the latter group, credit earned under the post's severance plan will remain to the credit of the employee while he works in the United States' behalf for the protecting power. When his employment for the U.S. Government and the protecting power is finally terminated, he will receive an appropriate amount of severance pay as though he had worked for the U.S. Government during the entire period. (The post's severance pay plan should include an appropriate cross-reference to this section). Make final salary and lump-sum leave payments for separated local employees in accordance with existing regulations, regardless of whether the employees will be hired by the protecting power.

7 FAM 951.5 Service To Be Requested From the Protecting Power

Unless circumstances dictate otherwise, the Department may be expected to request the protecting power to perform some or all of the following services, if possible, for American citizens who may remain in an area following withdrawal:

a. Granting of financial assistance loans, subject to the prior approval of the Department in each case.

b. Forwarding, through official channels, replies to welfare and whereabouts inquiries received through official channels.

c. In case of physical danger or distress, the rendering of all possible assistance to persons currently documented as American citizens and the reporting of the details of each case to the Department.

d. Submission of reports of death.

e. Conservation of American decedents' personal estates.

f. Submission of birth reports upon request.

g. Performance of notarial services on an accommodation basis.

h. Documentation of American citizens. If documentation is required, the Department will arrange with the protecting power the procedure to be followed. The protecting power will not be asked to take any action on American passports.

i. The protecting power will not be asked to perform visa services.

7 FAM 952 MEMORANDUM OF TRANSFER OF REPRESENTATION

At the time of relinquishment of American interests, a formal document shall be prepared along the following lines, appropriately modified if consular officers are involved rather than missions:

PROTOCOL DE REMISE

Protection of the interests of the United States of America in (governing power, or territory subject to its control)

JOHN DOE,

Ambassador Extraordinary and Plenipotentiary of the United States of America, hereby relinquishes, effective today, and

RICHARD ROE,

Ambassador Extraordinary and Plenipotentiary of (protecting power), hereby assumes, subject to the assent of the Government of (governing power), the protection of the interests of the United States of America in (governing power, or territory subject to its control; this geographical delimitation of protection should be stated as precisely as possible).

The following documents form a part of this protocol:

- a. Inventory of diplomatic and consular property, including archives of the United States.
- b. Receipt for official funds transferred from the United States Ambassador to the representative of the protecting power for use in connection with the protection of the interests of the United States.
- c. Inventory of property of other United States Government agencies.
- d. Inventories of property of diplomatic and consular personnel of the United States.
- e. List of the countries whose interests were under United States protection and whose archives and official property are being surrendered to the protecting power.
- f. Inventories of property of foreign countries in United States custody, including archives of those countries.
- g. Inventories of property of semi-public institutions accorded official protection.
- h. List of private property, including estates, of nationals of the United States.
- i. List of nationals of the United States considered entitled to protection. This protocol has been executed in triplicate at (capital of governing power) this _____ day of _____, 19____.

(signature)
Ambassador Extraordinary
and Plenipotentiary of
(protecting power)

(signature)
Ambassador Extraordinary
and Plenipotentiary of
the United States of America.

¹ If explicit consent has been given in advance by the governing power the words "subject to" should be replaced by "with."

² Additional signed copies may be executed if needs of the protecting power so require.

One signed copy should be retained by each of the two representatives and the third signed copy should be forwarded to the Department through the facilities of the protecting power. Additional unsigned copies may be prepared, of course, as required by either party.

7 FAM 953 CHANNEL OF COMMUNICATION

Following the relinquishment of American interests to a protecting power the Department, in conjunction with the Foreign Office concerned, will arrange the official channel of communication to be used for all matters relating to American interests (normally from the Department to the American diplomatic mission to the protecting power, to the latter's Foreign Office, and thence to the representatives of the protecting power in the country where protection is being afforded; reverse transmission of communications normally will be through the same channel). The protecting power's representatives in charge of American interests do not become officials of the United States. They report to and receive instructions from their own government only.

7 FAM 954 PERSONNEL EMPLOYED BY THE PROTECTING POWER FOR AMERICAN INTERESTS WORK

7 FAM 954.1 Rehiring of Local Employees by Protecting Power

a. The protecting power should be requested to rehire on a temporary basis those local employees whose services are required for the packing and shipping of the effects of U.S. citizen personnel and on an indefinite basis those local employees whose services will be needed in connection with the protection of other American interests. In addition, the principal officer may wish to request the protecting power to rehire certain other key senior local personnel if it would be desirable to have such trained personnel available to the post at such time as full or partial relations are resumed.

b. The probability of resuming relations would be reviewed periodically by the Department (appropriate regional bureau), to determine whether or not to continue such arrangements for key local personnel. In any event, the final responsibility for employment of any recommended local personnel and the determination of salary scales rests solely with the protecting power. The principal officer shall make sure that the Department's views in this matter are clearly understood by all American officials concerned, the representatives of the protecting power, and all local employees.

7 FAM 954.2 Former Local Employees Become Employees of Protecting Power

Former local employees, when reemployed by the protecting power, are not considered employees of the U.S. Government, even though they may be engaged in work relating to the interests of the United States. They do not receive credit in the U.S. Civil Service Retirement System for service with the protecting power, and salaries paid them while so employed are not subject to U.S. Civil Service retirement deductions. This information will be made clear to the representatives of the protecting power with the request that any person who is reemployed by that power be informed of the discontinuance of contributions to the U.S. Civil Service Retirement System. The representatives of the protecting power should also be made aware of the post's severance pay plan, of the deferral of severance pay to, and retention of severance pay credit by such locals, until and unless they are subsequently terminated by the protecting power, at which time the protecting power would be requested by the Department to make an equivalent payment from U.S. funds.

7 FAM 960 RELINQUISHMENT OF REPRESENTATION OF FOREIGN INTERESTS

7 FAM 961 TEMPORARY RELINQUISHMENT TO POWER PROTECTING AMERICAN INTERESTS

7 FAM 962.1 By Previous Agreement

If provided for by previous agreement (see section 7 FAM 925.4), the disposal of classified material shall be accomplished in accordance with the terms of such agreement. If unforeseen circumstances do not permit adherence to the agreement, the procedure set forth in section 7 FAM 962.2 shall be followed.

7 FAM 962.2 Without Prior Agreement

(See section 7 FAM 925.4 .)

Before any foreign-interest files are surrendered, classified information in them shall be returned to the Department if time permits; otherwise such material shall be destroyed and a report made to the Department of such destruction. (See section 7 FAM 929.3 .) The Department shall also be informed promptly of the volume and nature of the remaining foreign-interests archive, which the post surrenders to the protecting power, so that the information may be passed on to the appropriate government.

7 FAM 970 PROTECTION OF OFFICIAL PROPERTY

7 FAM 971 REAL PROPERTY

7 FAM 971.1 Where There is a Protecting Power

If there is a protecting power, a custody receipt shall be prepared for the signature of the protecting power and shall include statements showing:

- a. A clear identification of real property.
- b. The present condition of the property.
- c. That no repairs or alterations are to be made in or on the buildings during the period of custody without the prior approval of the United States Government, except in cases of emergency.
- d. That the property is to be returned to the United States Government within 30 days after receipt by the protecting power of a written request from the United States Government.
- e. That the protecting power assumes responsibility for the property to the extent its custodial powers permit.

7 FAM 971.2 Where there is no Protecting Power

If there is no protection power, all buildings shall be sealed. In order to prevent looting and to pave the way for a possible future claim by this Government, keys shall be turned over to the local authorities and such authorities informed in writing that the American property is being placed under their protection and that they will be held responsible for any violation of the premises or removal of contents. This step should be taken only if there is no possible alternative. In the event that the local authorities themselves are forced to evacuate the city, obviously the American property must be abandoned.

7 FAM 971.3 Government-Leased Property

When Government furniture, equipment and supplies have been removed from leased quarters and shipped or placed in storage, quarters shall be relinquished. Leases shall be terminated in accordance with their provisions and a memorandum of agreement executed between the parties fixing a definite date of termination and evidencing return of the premises to the lessor in good condition, free from claim against the Government. Each memorandum of agreement, bearing the same contract serial number as the lease to which it pertains, shall be submitted to the Department in signed original and duplicate. If quarters are retained in part for the purpose of storing Government furniture, equipment, and supplies which cannot be shipped or placed in storage, the lease shall be modified by a memorandum of agreement between the parties evidencing the reduction in space and proportionate reduction in rent as of a definite date. Arrangements shall be made for the representative of the protecting power to take custody of the property and make rental payments. Each memorandum of agreement, bearing the same contract serial number as the lease to which it pertains, shall be submitted to the Department in signed original and duplicate.

7 FAM 972 STORAGE OF MOVABLE PROPERTY OTHER THAN AUTOMOTIVE EQUIPMENT

7 FAM 972.1 Storage in Government-Owned Buildings

When there is no Government-owned buildings or when space in such buildings is inadequate for storage of movable property, posts should consult the Department, if possible, before proceeding in accordance with section 7 FAM 971.3 (retaining space in leased premises for storage purposes), or 7 FAM 972.2 (commercial storage). The principal officer shall not accept for storage in official premises property belonging to foreign governments or to foreign property among personal effects left in the premises. The storage of privately-owned American property is covered in section 7 FAM 437.1 .

7 FAM 972.2 Storage in Commercial Buildings

If Government furniture, equipment and supplies are placed in commercial storage a contract covering the rental of storage facilities shall be executed and submitted to the Department in signed original and duplicate bearing a new contract serial number, and arrangements made for the representative of the protecting power to make payments and to make periodic inspections of Government property in storage.

7 FAM 973 OFFICE AND HOUSEHOLD FURNITURE AND EQUIPMENT

7 FAM 973.1 General Office and Household Furniture and Equipment

Office mechanical labor saving devices and other equipment and furniture should be removed, provided such action is not impracticable because of cost, probable loss, or packing and shipping difficulties. If there is a protecting power all property not removed should be consolidated and stored, when possible, in Government-owned buildings. If there is no protecting power those items not removed shall be stored in Government-owned sealed buildings or otherwise disposed of pursuant to 1 FM III 253.4 (6 FAM 253.4); or the property may be sold or destroyed at the discretion of the principal officer. If sold, proceeds shall be credited to the deposit fund account "19X6875, Suspense, Department of State". (See 1 FM III 251, 252, 253, and 254 (6 FAM 251 , 6 FAM 252 , 6 FAM 253 , and 6 FAM 254).)

7 FAM 973.2 Passports, Seals, Legend Machines, Flags, etc.

Blank passports, seals, legend machine dies, stationery bearing the official insignia, letter-heads and watermarks, coats-of-arms and blank certificates of identity and registration must be destroyed. The following items should be removed whenever possible; otherwise they must be destroyed: flags, blank drafts and treasury checks.

7 FAM 974 AUTOMOTIVE EQUIPMENT

7 FAM 974.1 Department of State Equipment

7 FAM 974.1-1 Responsibility for Disposal or Use

The Department desires the removal of motor vehicles in good operating condition but actual disposal is subject to the discretion of the principal officer. When time permits and safe transportation out of the country is assured, consideration shall be given to the practicality of utilizing motor equipment for the simultaneous removal of personnel and selected Government property.

7 FAM 974.1-2 Method of Disposal

The following methods of disposing of Department of State vehicles are acceptable in the order given:

- a. Removal.
- b. Sale. Normally the sale of vehicles would be restricted to diplomatic missions or national personnel of diplomatic missions of friendly powers. If, in the opinion of the principal officer, conditions warrant such action, sales might also be made to business concerns of friendly powers or their national employees.
- c. Storage, provided the protecting power agrees to ship later upon receipt of instructions from the Debarment.
- d. Destruction, if there is no protecting power or if the latter will not agree to ship.

7 FAM 974.1-3 Sale and Deposit of Funds

If it is impracticable to remove automotive equipment, sale may be arranged in accordance with 1 FM III 250 (6 FAM 250). At the discretion of the principal officer, the general requirement that bids be obtained may be waived when conditions so justify. (See 1 FM III 212.52 (6 FAM 212.5-2).) If sold, proceeds received for all Department of State passenger vehicles (limousines, sedans and station wagons) except those purchased under appropriations made available for special programs such as ICA and USIA, shall be credited to the available special fund receipts account "19X5796A/R, Deposits, Proceeds of Sales, Personal Property Sold Abroad, Department of State". Proceeds from the sale of all Department of State truck equipment (trucks, jeeps, carryalls) shall be credited to the deposit fund account "19X6875, Suspense, Department of State". Each vehicle sold shall be identified by its respective inventory number, make, model, and serial number.

7 FAM 974.2 Other United States Government Civilian Agency Equipment

Proceeds of sale of all automotive equipment (both passenger-carrying and truck type vehicles) not titled in the Department are to be credited to the deposit fund account "19X6875, Suspense, Department of State". In order that such funds may be subsequently redistributed appropriately in Washington, each deposit shall clearly identify each vehicle sold and the respective owning agency, e.g., ICA, USIA, MAAG, MDAP, Agriculture.

7 FAM 974.3 Service Attache Equipment

If the service attaches desire that the principal officer assume responsibility for their official vehicles, posts shall proceed in accordance with section 980. If sold, proceeds from the sale of these vehicles shall be credited to the deposit fund account "19X6875, Suspense, Department of State", giving full identification of each vehicle sold, including its inventory number, make model, and serial number, and also identifying the Defense Department concerned, when applicable.

7 FAM 975 COMMUNICATIONS EQUIPMENT

Communications equipment in good or usable condition such as teletypewriter terminal sets, radio transmitters, receivers and other associated non-expendable items, shall be evacuated to posts outside the emergency area for storage or use, if such equipment can be released within sufficient time to assure safe transit. Any such equipment which cannot be so evacuated shall be destroyed in accordance with standing instruction to communications personnel. Officers are cautioned concerning the importance of informing the representative of the protecting power of the presence of any other communications and radio equipment left in the premises, including personal radios of staff members.

7 FAM 976 GOVERNMENT-OWNED COMMISSARIES

If and when an emergency commissary facility has been established by the Government under provisions of the Foreign Service Act of 1946, as amended, section 7 FAM 921 (a), its assets and moneys shall be treated as other government-owned property and moneys. (See sections 7 FAM 951.4 f, 7 FAM 972 , and 7 FAM 973 .)

7 FAM 977 WEAPONS AND OTHER DANGEROUS MATERIAL

Weapons used by building guards, personal property of diplomatic and consular officers such as hunting rifles and pistols, and any other items which are not normally required for the functioning of a diplomatic or consular post and which might serve as a pretext for entry and search of premises shall in no case be turned over to the protecting power. Such items would only embarrass the protecting power and might well jeopardize the whole protection arrangement. The disposal of property of this type is covered in the Emergency and Evacuation Manual.

7 FAM 978 INVENTORIES AND REPORTS TO BE SENT TO THE DEPARTMENT UPON EMERGENCY EVACUATION

The following reports, inventories and lists shall be forwarded by post to the Department in the event of an emergency evacuation (a copy of each of these reports shall be sent to the Department through the facilities of the protecting power):

a. An itemized listing covering official nonexpendable and personal property evacuated, identifying in each case the name of the agency or individual owner and specifying the destination of the property.

b. An itemization of official nonexpendable property sold, specifying the owner-agencies, names of purchasers, amounts received, and including a statement of disposition of proceeds.

c. A detailed report on disposition of Government-owned commissary goods.

d. A certified listing of nonexpendable property destroyed.

e. A statement of disposition of expendable items, including certification of items destroyed.

f. If there is no protecting power, itemized inventories of property left stored on United States Government premises under seal, and copies of written notification to the local authorities placing buildings and contents under their protection.

7 FAM 979 REPORTS TO BE MADE TO THE DEPARTMENT WHEN A POST IS OFFICIALLY CLOSED

As of the date the post is officially closed the Department shall be furnished the following items, if possible:

a. Forms FS-1160, reporting departure of personnel and termination of allowances.

b. Form DSD-910, Report of Obligations and Expenditures.

c. A separate statement showing the unpaid obligations under each allotment by object classes which will be paid by protecting power after evaluation of the post.

d. A receipt shall be obtained from the representative of the protecting power showing the amount of each kind of currency turned over to it, and the disbursing or agent officer shall show such amounts in his accounts as "Funds turned over to _____ Government," supporting the entry by the receipt. When the accounts are reviewed, appropriate adjustments will be made by the Department and credits or debits will be established as necessary based upon detailed information in the accounts. For this reason details necessary for all adjustment credits or debits shall be furnished with the accounts.

e. Statement of personal effects in storage, including address where located, and a statement as to the contents, quantities, etc.

f. A detailed statement of the disposition of the post's communications equipment.

7 FAM 980 CUSTODY OF PROPERTY OF OTHER FEDERAL AGENCIES

7 FAM 981 CONDITIONS OF ACCEPTANCE

The Department agrees to accept protective custody of property (including records) of other Federal agencies under certain conditions. In an emergency such supplies and equipment already in the custody of a post shall be treated in the same manner as Department of State property. The assumption of protective custody over additional property in an emergency is predicated upon the following terms:

a. Upon request of an office of another Federal agency the post is authorized to assume custody of that agency's property.

b. The field representative of the agency concerned and the principal officer agree that temporary custody is necessary as a safeguard for property which cannot be disposed of or evacuated.

c. A written agreement is required between the post and the representative of the other Federal agency stipulating that no reimbursement will be requested from the Department of State for property and equipment taken over, or for custodial transportation or maintenance costs in connection therewith.

d. The Department agrees to exercise ordinary care in the protection, maintenance, and storage of such property, but assumes no responsibility for loss or damage.

e. The representative of the other Federal agency agrees that, if needed in emergencies, there is no objection to the use of such supplies and equipment by the post and the written agreement exempts the Department of State from liability for reimbursement for such use.

7 FAM 982 ACQUISITION

Permanent acquisition of any of the property referred to in section 7 FAM 981 , after the emergency has passed, is not authorized unless the Department approves such requests upon specific justification by the post.

7 FAM 990 ACCOUNTS

Accounts which cannot be forwarded to Washington shall be turned over in final form to the protecting power for transmission to the Department through appropriate diplomatic channels in order that the financial responsibility of the officer involved may be cleared. File copies of all unclassified accounts which may not have been received in Washington shall also be turned over to the protecting power for forwarding to the Department if requested. As a precaution, true copies of the unacknowledged accounts of the office shall be carried, when practicable, with the evaluating officer to supplement the Department's records if the original accounts are never received. While there is a procedure for the discharge of obligations to the Government of the United States because of loss in transit or military activities, it is often difficult to substantiate claims, and in a few cases responsible officers have been required to settle accounts from their personal funds. If it is not possible to evacuate copies of accounts they shall be stored as safely as possible pending cessation of hostilities and reclamation of records and properties.