

or political entity which has been granted diplomatic or other official privileges and immunities under the laws of the United States or which engages in some aspect of the conduct of the international affairs of such territory or political entity,

including any real property of such a mission and including the personnel of such a mission;

(4) “real property” includes any right, title, or interest in or to, or the beneficial use of, any real property in the United States, including any office or other building;

(5) “Secretary” means the Secretary of State;

(6) “sending State” means the foreign government, territory, or political entity represented by a foreign mission; and

(7) “United States” means, when used in a geographic sense, the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(b) Determinations with respect to the meaning and applicability of the terms used in subsection (a) of this section shall be committed to the discretion of the Secretary.

(Aug. 1, 1956, ch. 841, title II, § 202, as added Pub. L. 97-241, title II, § 202(b), Aug. 24, 1982, 96 Stat. 283; amended Pub. L. 99-93, title I, § 127(b), Aug. 16, 1985, 99 Stat. 418; Pub. L. 99-569, title VII, § 701, Oct. 27, 1986, 100 Stat. 3204; Pub. L. 100-204, title I, § 153(e), Dec. 22, 1987, 101 Stat. 1353; Pub. L. 103-236, title I, § 162(o)(1), Apr. 30, 1994, 108 Stat. 409.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this title”, meaning title II of act Aug. 1, 1956, ch. 841, as added Aug. 24, 1982, Pub. L. 97-241, title II, § 202(b), 96 Stat. 283, known as the Foreign Missions Act, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 4301 of this title and Tables.

#### AMENDMENTS

1994—Subsec. (a)(3) to (8). Pub. L. 103-236 struck out par. (3) and redesignated former pars. (4) to (8) as (3) to (7), respectively. Prior to amendment, par. (3) read as follows: “‘Director’ means the Director of the Office of Foreign Missions established pursuant to section 4303(a) of this title;”.

1987—Subsec. (a)(1)(G). Pub. L. 100-204 added subpar. (G).

1986—Subsec. (a)(4). Pub. L. 99-569 amended par. (4) generally, substituting “which is involved in the diplomatic, consular, or other activities of, or which is substantially owned or effectively controlled by” for “involving diplomatic, consular, or other governmental activities of”.

1985—Subsec. (a)(4). Pub. L. 99-93 substituted “mission to or agency in” for “official mission to” in introductory provisions, and inserted “or which engages in some aspect of the conduct of the international affairs of such territory or political entity” before the comma at end of subpar. (B).

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103-236 become effective,

or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103-236, as amended, set out as a note under section 2651a of this title.

#### § 4303. Authorities of Secretary of State

The Secretary shall carry out the following functions:

(1) Assist agencies of Federal, State, and municipal government with regard to ascertaining and according benefits, privileges, and immunities to which a foreign mission may be entitled.

(2) Provide or assist in the provision of benefits for or on behalf of a foreign mission in accordance with section 4304 of this title.

(3) As determined by the Secretary, dispose of property acquired in carrying out the purposes of this chapter.<sup>1</sup>

(4) As determined by the Secretary, designate an office within the Department of State to carry out the purposes of this chapter.<sup>1</sup> If such an office is established, the President may appoint, by and with the advice and consent of the Senate, a Director, with the rank of ambassador. Of the Director and the next most senior person in the office, one should be an individual who has served in the Foreign Service and the other should be an individual who has served in the United States intelligence community.

(5) Perform such other functions as the Secretary may determine necessary in furtherance of the policy of this chapter.

(Aug. 1, 1956, ch. 841, title II, § 203, as added Pub. L. 97-241, title II, § 202(b), Aug. 24, 1982, 96 Stat. 284; amended Pub. L. 98-164, title VI, § 604(a), (b), Nov. 22, 1983, 97 Stat. 1043, 1044; Pub. L. 98-618, title VI, § 601(c), Nov. 8, 1984, 98 Stat. 3303; Pub. L. 100-204, title I, § 173(a)(2), Dec. 22, 1987, 101 Stat. 1360; Pub. L. 101-246, title I, § 116(a), Feb. 16, 1990, 104 Stat. 24; Pub. L. 103-236, title I, § 162(o)(2), Apr. 30, 1994, 108 Stat. 409.)

#### REFERENCES IN TEXT

This chapter, referred to in pars. (3) and (4), was in the original “this Act” and was translated as reading “this title” meaning title II of act Aug. 1, 1956, ch. 841, as added Aug. 24, 1982, Pub. L. 97-241, title II, § 202(b), 96 Stat. 283, known as the Foreign Missions Act, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 4301 of this title and Tables.

#### AMENDMENTS

1994—Pub. L. 103-236 amended section generally. Prior to amendment, section required Secretary of State to establish Office of Foreign Missions in Department of State, provided for Director and Deputy Director of Office, and specified their powers and duties.

1990—Subsec. (c)(3), (4). Pub. L. 101-246 added par. (3) and redesignated former par. (3) as (4).

1987—Subsec. (a). Pub. L. 100-204 inserted sentence at end relating to compensation of Director.

1984—Subsec. (a). Pub. L. 98-618, § 601(c)(1), struck out requirements that Director be an individual with: minimum of ten years service in the Foreign Service, significant administrative experience, and service in countries wherein the United States has had significant problems in assuring secure and efficient operations of its missions as result of the actions of other countries.

Subsec. (b). Pub. L. 98-618, § 601(c)(2), substituted requirement of prior complementary service of the Direc-

<sup>1</sup> See References in Text note below.

tor and Deputy Director in the Foreign Service and the Intelligence Community for requirement that Deputy Director must have served in the Intelligence Community.

1983—Subsec. (a). Pub. L. 98-164, § 604(a), inserted provisions respecting rank, and experience required of the Director, and substituted provision requiring appointment by the President by and with the advice and consent of the Senate, for provision requiring appointment by the Secretary.

Subsecs. (b), (c). Pub. L. 98-164, § 604(b), added subsec. (b) and redesignated former subsec. (b) as (c).

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103-236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103-236, as amended, set out as a note under section 2651a of this title.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-204 effective 30 days after Dec. 22, 1987, see section 173(b) of Pub. L. 100-204, set out as a note under section 2707 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-618, title VI, § 601(d), Nov. 8, 1984, 98 Stat. 3303, provided that: “The amendments made by subsection (c) [amending this section] shall apply only with respect to any appointment of a Director or Deputy Director of the Office of Foreign Missions, as the case may be, after the date of the enactment of this section [Nov. 8, 1984].”

#### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-164, title VI, § 604(c), Nov. 22, 1983, 97 Stat. 1044, provided that: “The amendments made by this section [amending this section] shall apply with respect to any Director of the Office of Foreign Missions, and to any Deputy Director of the Office of Foreign Missions, appointed after the date of enactment of this Act [Nov. 22, 1983].”

#### NEW SPENDING AUTHORITY

Any new spending authority provided by amendment by section 173(a)(2) of Pub. L. 100-204 effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts, see section 173(c) of Pub. L. 100-204, set out as a note under section 2707 of this title.

### § 4304. Provision of benefits

#### (a) Request by foreign mission; terms and conditions as approved by Secretary

Upon the request of a foreign mission, benefits may be provided to or for that foreign mission by or through the Secretary on such terms and conditions as the Secretary may approve.

#### (b) Benefits through Secretary as mandatory; compliance with terms and conditions

If the Secretary determines that such action is reasonably necessary on the basis of reciprocity or otherwise—

- (1) to facilitate relations between the United States and a sending State,
- (2) to protect the interests of the United States,
- (3) to adjust for costs and procedures of obtaining benefits for missions of the United States abroad,
- (4) to assist in resolving a dispute affecting United States interests and involving a foreign mission or sending State, or

(5) subject to subsection (f) of this section, to implement an exchange of property between the Government of the United States and the government of a foreign country, such property to be used by each government in the respective receiving state for, or in connection with, diplomatic or consular establishments,

then the Secretary may require a foreign mission (A) to obtain benefits from or through the Secretary on such terms and conditions as the Secretary may approve, or (B) to forego the acceptance, use, or relation of any benefit or to comply with such terms and conditions as the Secretary may determine as a condition to the execution or performance in the United States of any contract or other agreement, the acquisition, retention, or use of any real property, or the application for or acceptance of any benefit (including any benefit from or authorized by any Federal, State, or municipal governmental authority, or any entity providing public services).

#### (c) Surcharge or fee; waiver of recourse

Terms and conditions established by the Secretary under this section may include—

(1) a requirement to pay to the Secretary a surcharge or fee, and

(2) a waiver by a foreign mission (or any assignee of or person deriving rights from a foreign mission) of any recourse against any governmental authority, any entity providing public services, any employee or agent of such an authority or entity, or any other person, in connection with any action determined by the Secretary to be undertaken in furtherance of this chapter.

#### (d) Agent for waiver of recourse

For purposes of effectuating a waiver of recourse which is required under this section, the Secretary may designate any officer of the Department of State as the agent of a foreign mission (or of any assignee of or person deriving rights from a foreign mission). Any such waiver by an officer so designated shall for all purposes (including any court or administrative proceeding) be deemed to be a waiver by the foreign mission (or the assignee of or other person deriving rights from a foreign mission).

#### (e) Secret Service protection

Nothing in this chapter shall be deemed to preclude or limit in any way the authority of the United States Secret Service to provide protective services pursuant to section 3056 or 3056A of title 18 at a level commensurate with protective requirements as determined by the United States Secret Service.

#### (f) In-kind exchange of properties with foreign government; transfer of funds; reciprocal agreement; regulations

(1) Upon a determination in each specific case by the Secretary of State or the Secretary's designee that the purpose of the Foreign Service Buildings Act, 1926 [22 U.S.C. 292 et seq.], can best be met on the basis of an in-kind exchange of properties with a foreign country pursuant to subsection (b)(5) of this section, the Secretary of State may transfer funds made available under the heading “Acquisition and Maintenance of Buildings Abroad” (including funds held in the