

tled to immunity from the criminal jurisdiction of the receiving state under laws extending diplomatic privileges and immunities committed a serious crime, the sending state will waive such immunity or the sending state will prosecute such individual.

**(c) Notification of diplomatic corps**

The Secretary should periodically notify each foreign mission of United States policies relating to criminal offenses committed by individuals with immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.

(Aug. 1, 1956, ch. 841, title II, §204B, as added Pub. L. 105-375, §1, Nov. 12, 1998, 112 Stat. 3385.)

CODIFICATION

Section 1 of Pub. L. 105-375, which directed amendment of title I of the State Department Basic Authorities Act of 1956 by adding this section after section 204A, was executed by adding this section after section 204A of title II of the State Department Basic Authorities Act of 1956, to reflect the probable intent of Congress.

**§ 4305. Property of foreign missions**

**(a) Proposed acquisition, sale, or other disposition**

(1) The Secretary shall require any foreign mission, including any mission to an international organization (as defined in section 4309(b)(2) of this title), to notify the Secretary prior to any proposed acquisition, or any proposed sale or other disposition, of any real property by or on behalf of such mission. The foreign mission (or other party acting on behalf of the foreign mission) may initiate or execute any contract, proceeding, application, or other action required for the proposed action—

(A) only after the expiration of the 60-day period beginning on the date of such notification (or after the expiration of such shorter period as the Secretary may specify in a given case); and

(B) only if the mission is not notified by the Secretary within that period that the proposal has been disapproved; however, the Secretary may include in such a notification such terms and conditions as the Secretary may determine appropriate in order to remove the disapproval.

(2) For purposes of this section, “acquisition” includes any acquisition or alteration of, or addition to, any real property or any change in the purpose for which real property is used by a foreign mission.

**(b) Divestiture**

The Secretary may require any foreign mission to divest itself of, or forgo the use of, any real property determined by the Secretary—

(1) not to have been acquired in accordance with this section;

(2) to exceed limitations placed on real property available to a United States mission in the sending State; or

(3) where otherwise necessary to protect the interests of the United States.

**(c) Cessation of diplomatic, consular, and other governmental activities in United States; protecting power or other agent; disposition of property**

If a foreign mission has ceased conducting diplomatic, consular, and other governmental activities in the United States and has not designated a protecting power or other agent approved by the Secretary to be responsible for the property of that foreign mission, the Secretary—

(1) until the designation of a protecting power or other agent approved by the Secretary, may protect and preserve any property of that foreign mission; and

(2) may dispose of such property at such time as the Secretary may determine after the expiration of the one-year period beginning on the date that the foreign mission ceased those activities, and may remit to the sending State the net proceeds from such disposition.

**(d) Protection from future hostile intelligence activities in United States**

(1) After December 22, 1987, real property in the United States may not be acquired (by sale, lease, or other means) by or on behalf of the foreign mission of a foreign country described in paragraph (4) if, in the judgment of the Secretary of Defense (after consultation with the Secretary of State), the acquisition of that property might substantially improve the capability of that country to intercept communications involving United States Government diplomatic, military, or intelligence matters.

(2) After December 22, 1987, real property in the United States may not be acquired (by sale, lease, or other means) by or on behalf of the foreign mission of a foreign country described in paragraph (4) if, in the judgment of the Director of the Federal Bureau of Investigation (after consultation with the Secretary of State), the acquisition of that property might substantially improve the capability of that country to engage in intelligence activities directed against the United States Government, other than the intelligence activities described in paragraph (1).

(3) The Secretary of State shall inform the Secretary of Defense and the Director of the Federal Bureau of Investigation immediately upon notice being given pursuant to subsection (a) of this section of a proposed acquisition of real property by or on behalf of the foreign mission of a foreign country described in paragraph (4).

(4) For the purposes of this subsection, the term “foreign country” means—

(A) any country listed as a Communist country in section 2370(f) of this title;

(B) any country determined by the Secretary of State, for purposes of section 2405(j) of the Appendix to title 50, to be a country which has repeatedly provided support for acts of international terrorism; and

(C) any other country which engages in intelligence activities in the United States which are adverse to the national security interests of the United States.

(5) As used in this section, the term “substantially improve” shall not be construed to pre-

vent the establishment of a foreign mission by a country which, on December 22, 1987—

(A) does not have a mission in the United States, or

(B) with respect to a city in the United States, did not maintain a mission in that city.

(Aug. 1, 1956, ch. 841, title II, § 205, as added Pub. L. 97-241, title II, § 202(b), Aug. 24, 1982, 96 Stat. 285; amended Pub. L. 99-93, title I, § 127(d), (e), Aug. 16, 1985, 99 Stat. 418; Pub. L. 100-204, title I, § 161, Dec. 22, 1987, 101 Stat. 1356; Pub. L. 103-236, title I, § 162(o)(5), Apr. 30, 1994, 108 Stat. 410.)

#### AMENDMENTS

1994—Subsec. (a). Pub. L. 103-236, § 162(o)(5)(A), substituted “Secretary prior to” for “Director prior to” in introductory provisions.

Subsec. (c)(2). Pub. L. 103-236, § 162(o)(5)(B), struck out “authorize the Director to” before “dispose of”.

1987—Subsec. (d). Pub. L. 100-204 added subsec. (d).

1985—Subsec. (a)(1). Pub. L. 99-93, § 127(e), substituted “shall” for “may” and inserted “, including any mission to an international organization (as defined in section 4309(b)(2) of this title),” after “foreign mission” in first sentence, and substituted “The” for “If such a notification is required, the” in second sentence.

Subsec. (b)(3). Pub. L. 99-93, § 127(d), added par. (3).

#### 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.

### § 4306. Location of foreign missions in the District of Columbia

#### (a) Section as governing location, replacement, or expansion

The location, replacement, or expansion of chanceries in the District of Columbia shall be subject to this section.

#### (b) Acceptable areas; limitations and conditions

(1) A chancery shall be permitted to locate as a matter of right in any area which is zoned commercial, industrial, waterfront, or mixed-use (CR).

(2) A chancery shall also be permitted to locate—

(A) in any area which is zoned medium-high or high density residential, and

(B) in any other area, determined on the basis of existing uses, which includes office or institutional uses, including but not limited to any area zoned mixed-use diplomatic or special purpose,

subject to disapproval by the District of Columbia Board of Zoning Adjustment in accordance with this section.

(3) In each of the areas described in paragraphs (1) and (2), the limitations and conditions applicable to chanceries shall not exceed those applicable to other office or institutional uses in that area.

#### (c) Filing of application with Board of Zoning Adjustment; publication of notice; public participation; final determination

(1) If a foreign mission wishes to locate a chancery in an area described in subsection

(b)(2) of this section, or wishes to appeal an administrative decision relating to a chancery based in whole or in part upon any zoning map or regulation, it shall file an application with the Board of Zoning Adjustment which shall publish notice of that application in the District of Columbia Register.

(2) Regulations issued to carry out this section shall provide appropriate opportunities for participation by the public in proceedings concerning the location, replacement, or expansion of chanceries.

(3) A final determination concerning the location, replacement, or expansion of a chancery shall be made not later than six months after the date of the filing of an application with respect to such location, replacement, or expansion. Such determination shall not be subject to the administrative proceedings of any other agency or official except as provided in this chapter.

#### (d) Criteria for determination

Any determination concerning the location of a chancery under subsection (b)(2) of this section, or concerning an appeal of an administrative decision with respect to a chancery based in whole or in part upon any zoning regulation or map, shall be based solely on the following criteria:

(1) The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capital.

(2) Historic preservation, as determined by the Board of Zoning Adjustment in carrying out this section; and in order to ensure compatibility with historic landmarks and districts, substantial compliance with District of Columbia and Federal regulations governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmarks.

(3) The adequacy of off-street or other parking and the extent to which the area will be served by public transportation to reduce parking requirements, subject to such special security requirements as may be determined by the Secretary, after consultation with Federal agencies authorized to perform protective services.

(4) The extent to which the area is capable of being adequately protected, as determined by the Secretary, after consultation with Federal agencies authorized to perform protective services.

(5) The municipal interest, as determined by the Mayor of the District of Columbia.

(6) The Federal interest, as determined by the Secretary.

#### (e) Consistency of regulations, proceedings, and other actions; review and comment by National Planning Commission

(1) Regulations, proceedings, and other actions of the National Capital Planning Commission, the Zoning Commission for the District of Columbia, and the Board of Zoning Adjustment affecting the location, replacement, or expansion of chanceries shall be consistent with this section (including the criteria set out in subsection (d) of this section) and shall reflect the policy of this chapter.