

(B) such record was kept in the course of a regularly conducted business activity;

(C) the business activity made such a record as a regular practice; and

(D) if such record is not the original, such record is a duplicate of the original;

unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness.

(2) A foreign certification under this section shall authenticate such record or duplicate.

(b) At the arraignment or as soon after the arraignment as practicable, a party intending to offer in evidence under this section a foreign record of regularly conducted activity shall provide written notice of that intention to each other party. A motion opposing admission in evidence of such record shall be made by the opposing party and determined by the court before trial. Failure by a party to file such motion before trial shall constitute a waiver of objection to such record or duplicate, but the court for cause shown may grant relief from the waiver.

(c) As used in this section, the term—

(1) “foreign record of regularly conducted activity” means a memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, maintained in a foreign country;

(2) “foreign certification” means a written declaration made and signed in a foreign country by the custodian of a foreign record of regularly conducted activity or another qualified person that, if falsely made, would subject the maker to criminal penalty under the laws of that country; and

(3) “business” includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

(Added Pub. L. 98-473, title II, §1217(a), Oct. 12, 1984, 98 Stat. 2165.)

#### EFFECTIVE DATE

Pub. L. 98-473, title II, §1220, Oct. 12, 1984, 98 Stat. 2167, provided that: “This part [part K (§§1217-1220) of chapter XII of title II of Pub. L. 98-473, enacting this section and sections 3292, 3506, and 3507 of this title and amending section 3161 of this title] and the amendments made by this part shall take effect thirty days after the date of the enactment of this Act [Oct. 12, 1984].”

### § 3506. Service of papers filed in opposition to official request by United States to foreign government for criminal evidence

(a) Except as provided in subsection (b) of this section, any national or resident of the United States who submits, or causes to be submitted, a pleading or other document to a court or other authority in a foreign country in opposition to an official request for evidence of an offense shall serve such pleading or other document on the Attorney General at the time such pleading or other document is submitted.

(b) Any person who is a party to a criminal proceeding in a court of the United States who submits, or causes to be submitted, a pleading or other document to a court or other authority in a foreign country in opposition to an official request for evidence of an offense that is a sub-

ject of such proceeding shall serve such pleading or other document on the appropriate attorney for the Government, pursuant to the Federal Rules of Criminal Procedure, at the time such pleading or other document is submitted.

(c) As used in this section, the term “official request” means a letter rogatory, a request under a treaty or convention, or any other request for evidence made by a court of the United States or an authority of the United States having criminal law enforcement responsibility, to a court or other authority of a foreign country.

(Added Pub. L. 98-473, title II, §1217(a), Oct. 12, 1984, 98 Stat. 2166.)

#### EFFECTIVE DATE

Section effective 30 days after Oct. 12, 1984, see section 1220 of Pub. L. 98-473, set out as a note under section 3505 of this title.

### § 3507. Special master at foreign deposition

Upon application of a party to a criminal case, a United States district court before which the case is pending may, to the extent permitted by a foreign country, appoint a special master to carry out at a deposition taken in that country such duties as the court may direct, including presiding at the deposition or serving as an advisor on questions of United States law. Notwithstanding any other provision of law, a special master appointed under this section shall not decide questions of privilege under foreign law. The refusal of a court to appoint a special master under this section, or of the foreign country to permit a special master appointed under this section to carry out a duty at a deposition in that country, shall not affect the admissibility in evidence of a deposition taken under the provisions of the Federal Rules of Criminal Procedure.

(Added Pub. L. 98-473, title II, §1217(a), Oct. 12, 1984, 98 Stat. 2166.)

#### EFFECTIVE DATE

Section effective 30 days after Oct. 12, 1984, see section 1220 of Pub. L. 98-473, set out as a note under section 3505 of this title.

### § 3508. Custody and return of foreign witnesses

(a) When the testimony of a person who is serving a sentence, is in pretrial detention, or is otherwise being held in custody, in a foreign country, is needed in a State or Federal criminal proceeding, the Attorney General shall, when he deems it appropriate in the exercise of his discretion, have the authority to request the temporary transfer of that person to the United States for the purposes of giving such testimony, to transport such person to the United States in custody, to maintain the custody of such person while he is in the United States, and to return such person to the foreign country.

(b) Where the transfer to the United States of a person in custody for the purposes of giving testimony is provided for by treaty or convention, by this section, or both, that person shall be returned to the foreign country from which he is transferred. In no event shall the return of such person require any request for extradition or extradition proceedings, or proceedings under the immigration laws.