

7 FAM 1070

REPRESENTATION OF INTERESTS OF THE UNITED STATES BY THIRD POWERS

(CT:CON-138; 05-17-2006)
(Office of Origin: CA/OCS/PRI)

7 FAM 1071 ARRANGING FOR REPRESENTATION

7 FAM 1071.1 Customary Procedure

(CT:CON-138; 05-17-2006)

- a. When the United States decides to withdraw its representation from a country, the Department may request a friendly third country to take over the protection of U.S. interests.
- b. The Department normally sends a request through the U.S. mission in the third country, either shortly before or immediately after a break in relations.
- c. The Department, upon receiving the assent of the protecting power, sends appropriate instructions to the officers concerned, through the Department's channels, if possible, or through the facilities of the protecting power.

7 FAM 1071.2 Direct Request to Protecting Power by Post

(CT:CON-138; 05-17-2006)

- a. The Department permits posts to surrender the protection of U.S. interests to a representative of a third country without prior instruction from the Department only in extreme emergencies.
- b. If time does not permit the receipt of instructions from the Department, a post may surrender provisionally the protection of U.S. interests to any agreeable representative of a third power in accordance with the provision of similar action in regard to foreign interests.
- c. Otherwise, post may not conduct preliminary discussions regarding protection possibilities, except upon specific authorization of the

Department.

7 FAM 1071.3 Responsibility of Principal Officer for Official Property

(CT:CON-138; 05-17-2006)

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 1071.4 Preparations for Relinquishment of U.S. Interests

(CT:CON-138; 05-17-2006)

- a. The post's Emergency Action Plan is a source of detailed procedural guidance when withdrawal of U.S. representation occurs in the context of an emergency situation. General Department guidance concerning the preparation of the Emergency Action Plan and related policies is located throughout 12 FAH-1. Suspension of operations is covered most specifically in 12 FAH-1, Annex K, Addendum 2. Emergency Evacuation Fiscal Policy is addressed at 4 FAM 830.
- b. The relinquishment of U.S. interests to a third country raises additional considerations. When the principal officer anticipates possible withdrawal of U.S. representation, he or she should try to have the affairs of the office in suitable shape for an orderly relinquishment to the representative of the protecting power as follows:
 - (1) Terminate leases for rented government quarters whenever it is possible to obtain suitable space elsewhere for the storage of furniture, furnishings, equipment and archives housed therein.
 - (2) Turn over intact to the protecting power real property owned by the U.S. government, including the furniture, furnishings, and equipment housed therein. Consult the Department for additional guidance. Real property questions should be directed to Overseas Building Operations (OBO).
 - (3) Store the personal furniture and belongings of official U.S. staff in U.S. government-owned or leased quarters, at the owner's risk.
 - (4) 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 of

property and other belongings left behind, time permitting. The officer or officers so designated is responsible for delivery of this information to the representative of the protecting power.

- (5) Prepare inventories of Government-owned real and personal property turned over to the protecting power (including privately owned property left behind) and attach the inventory to the formal diplomatic instrument or protocol (process verbale) (known as a protocol de remise) at the time of transfer. For general guidance on diplomatic communications see 5 FAH-1 H-600 discussion of preparation of diplomatic notes. (See 11 FAM 730 regarding bilateral agreements). CA/OCS/PRI can provide examples of the protocol de remise (ASKPRI@state.gov). This instrument will be cleared by CA/OCS/PRI, the Office of the Legal Adviser and the regional bureau.
- (6). Deliver any surplus funds on hand (including bank accounts) that may be used for the protection of the interests of the U.S. government to the representative of the protecting power in return for a receipt. Before surrendering funds to the protecting power, if the protection arrangement permits, record all local trust fund deposits in the accounts of the disbursing officer or the cashier accounting records, and attach the supporting individual deposit records showing the purpose of the deposits.
- (7) Prepare memorandums to assist the protecting power in effectively continuing the protection of property.
- (8) Destroy all sensitive items of property designated for destruction, in accordance with post's Emergency Action Plan and guidance summarized at 12 FAH -1 Annex E. Posts must not delegate the responsibility for destruction of property of any kind to the protecting power.
- (9) If possible prior to departure, terminate in writing such services as telephone, electric, and gas services which are not required in connection with the protection of U.S. interests and leave copies of such letters with the protecting power.
- (10) Give a list of the names and addresses of all U.S. nationals remaining in the area to the representative of the protecting power.
- (11) Terminate effective on or before the date of relinquishment of U.S. interests the employment of all local employees.
- (12) Make end of service payments for separated Locally Employed Staff in accordance with the Local Compensation Plan and existing regulations, regardless of whether the employees will be hired by the protecting power. End of service benefits may include but are not limited to separation notice or payment in lieu, final salary,

lump sum payment for unused annual leave, and severance.

- (13) Handle the retirement paperwork on Locally Employed Staff who are under the U.S. Civil Service Retirement System as follows:
 - (a) Employees who meet the age and length-of-service requirements may retire on immediate annuities.
 - (b) Employees who are not eligible for immediate annuities may leave their contributions in the system and receive deferred annuities or withdraw their Civil Service retirement contributions.
- (14) Terminate local insurance contracts such as those for LES medical insurance, life insurance, and local retirement benefits.

7 FAM 1071.5 Consular Services the Protecting Power may Provide

(CT:CON-138; 05-17-2006)

- a. The Department may request the protecting power to perform some or all of the following services for U.S. citizens who may remain or travel to the protected country following U.S. withdrawal. This is not an exhaustive list.
 - (1). Protection and assistance within the limits defined by the Vienna Convention on Consular Relations (VCCR), when the Department of State requests.
 - (2). Financial assistance to destitute or injured U.S. citizens/nationals.
 - (3). Reporting of deaths of U.S. citizens and acting as conservator of the assets of their estates.
 - (4). Accepting applications for U.S. passports and Reports of Birth, under certain conditions, and forwarding them for U.S. embassy approval through the protecting power's Ministry of Foreign Affairs.
 - (5) Reporting on the welfare and whereabouts of U.S. citizens, including disaster reporting..
 - (6) Reporting on the number of U.S. citizens registered with the protecting power. (The U.S. Embassy in the capital of the protecting power will submit this as an F-77 Report).
 - (7) Performing notarial services for documents to be used in the United States and collecting applicable fees, provided it does not violate U.S. trade or economic sanctions pursuant to regulations that prohibit notarials, promulgated in accordance with the **Trading With the Enemy Act (TWEA)** (50 U.S.C. App.) and the **International Emergency Economic Powers Act (IEEPA)** (50

U.S.C. 1701). . See 7 FAM 834 and the homepage for the U.S. Office of Foreign Assets Control (OFAC). (CA/OCS/PRI will provide specific guidance on this subject (ASKPRI@state.gov), in consultation with the Office of the Legal Adviser and OFAC.)

- (8) Effecting service of process in civil proceedings before U.S. courts when authorized by CA/OCS/PRI, L/CA and L/DL. These instances relate primarily to matters under the Foreign Sovereign Immunities Act (FSIA) (28 U.S.C. 1608; 22 CFR 93; 7 FAM 900).

Note: As in all protecting power functions, provision of services is based on the terms of the particular agreement. The U.S. – Swedish Protecting Power Agreement does not include this function.

- (9) Issuing transportation letters when the Department authorizes.
 - (10) Distributing U.S. federal benefits to beneficiaries in the protected country.
 - (11) Assisting U.S. seamen and U.S. vessels.
- b. The Department **does not** generally ask a protecting power either to perform **visa services** or to **accept for deposit the personal property of private U.S. citizens** other than those who are deceased. (See 7 FAM 620).
 - c. There are nevertheless responsibilities that personnel whom the protecting power employs cannot perform. Responsibilities, such as the acceptance of certain first-time adult U.S. passport applications or approval of any passport applications, require the intervention of other posts. U.S. law specifies who may perform these functions. (See 7 FAM 014).

7 FAM 1072 MEMORANDUM OF TRANSFER OF REPRESENTATION

(CT:CON-138; 05-17-2006)

At the time of relinquishment of U.S. interests, the responsible U.S. officer should prepare a formal Protocol De Remise in accordance with specific guidance provided by the Department. CA/OCS/PRI will prepare the cable instruction with clearance from CA/OCS/ACS, CA/EX, L/CA, L/DL and the Regional Bureau.

7 FAM 1073 CHANNEL OF COMMUNICATION

(CT:CON-138; 05-17-2006)

- a. Following the relinquishment of U.S. interests to a protecting power, the

Department, in conjunction with the foreign ministry concerned, will normally arrange the official channel of communication for all matters relating to U.S. interests as follows:

- (1) From the Department to the U.S. diplomatic mission accredited to the protecting power;
 - (2) U.S. diplomatic mission to the protecting power to the protecting power's foreign ministry;
 - (3) Protecting power's ministry to the representatives of the protecting power in the country where protection takes place.
- b. Reverse transmission of communications normally will follow the reverse order of relinquishment of U.S. interests.
- c. The protecting power's representatives in charge of U.S. interests do not become officials of the United States. They report to and receive instructions from their own government only.

7 FAM 1074 PERSONNEL EMPLOYED BY THE PROTECTING POWER FOR U.S. INTERESTS WORK

7 FAM 1074.1 Hiring of Local Employees by Protecting Power

(CT:CON-138; 05-17-2006)

- a. The Department will normally request that the protecting power hire on a temporary basis those local employees whose services the Department needs for the packing and shipping of the effects of U.S. citizen personnel and on an indefinite basis those local employees who are needed to protect other U.S. interests.
- b. In addition, the principal officer may wish to request the protecting power to hire certain other key senior local personnel if it would be desirable to have such trained personnel available at such time as full or partial relations are resumed.
- c. The Department (appropriate regional bureau) reviews periodically whether or not to continue such arrangements for key local personnel.
- d. In any event, the final responsibility for employment of any recommended local personnel and the determination of salary scales and benefit plans rests solely with the protecting power.
- e. The principal officer should make sure that the Department's views in this

matter are clearly understood by all U.S. officials concerned, the representatives of the protecting power, and all local employees.

7 FAM 1074.2 Former Local Employees Become Employees of Protecting Power

(CT:CON-138; 05-17-2006)

- a. Former local employees, when employed 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.
- b. They do not receive credit in the U.S. Civil Service Retirement System (CSRS) for service with the protecting power, and salaries paid them while so employed are not subject to U.S. CSRS.
- c. The responsible U.S. officer should make clear to the representatives of the protecting power and request that the protecting power representative inform any person who is employed by that power that the Department will discontinue contributions to the U.S. CSRS.

7 FAM 1075 THROUGH 1079 UNASSIGNED