Department of State
Office of Foreign Missions



Foreign Missions Act

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BZA
Case No. 16739
Exhibit No. 44

Board of Zoning Adjustment
District of Columbia
CASE NO.16739
EXHIBIT NO.44

Bev. Bailey

PREFACE

The Office of Foreign Missions was created by the 1982 Foreign Missions Act. Its mission has evolved into four major areas:

- Employment of reciprocity to ensure equitable treatment for United States diplomatic and consular missions abroad and their personnel;
- Regulation of the activities of foreign missions in the United States in a manner that will protect the foreign policy and national security interests of the United States;
- Protection of the United States public from abuses of privileges and immunities by members of the foreign missions; and
- Provision of service and assistance to the foreign mission community in the United States to assure appropriate privileges, benefits, and services on a reciprocal basis.

Office of Foreign Missions regional offices are located in:

- New York
- Chicago
- San Francisco
- Los Angeles
- Honolulu

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Sec. 4301. Congressional declaration of findings and policy

- (a) Findings
  The Congress finds that the operation in the United States of foreign missions and public international organizations and the official missions to such organizations, including the permissible scope of their activities and the location and size of their facilities, is a proper subject for the exercise of Federal jurisdiction.

- (b) Policy
  The Congress declares that it is the policy of the United States to support the secure and efficient operation of United States missions abroad, to facilitate the secure and efficient operation in the United States of foreign missions and public international organizations and the official missions to such organizations, and to assist in obtaining appropriate benefits, privileges, and immunities for those missions and organizations and to require their observance of corresponding obligations in accordance with international law.

- (c) Treatment of foreign missions in United States
  The treatment to be accorded to a foreign mission in the United States shall be determined by the Secretary after due consideration of the benefits, privileges, and immunities provided to missions of the United States in the country or territory represented by that foreign mission, as well as matters relating to the protection of the interests of the United States.

Sec. 4302. Definitions

- (a) For purposes of this chapter -
  - (1) "benefit" (with respect to a foreign mission) means any acquisition, or authorization for an acquisition, in the United States by or for a foreign mission, including the acquisition of -
    - (A) real property by purchase, lease, exchange, construction, or otherwise,
    - (B) public services, including services relating to customs, importation, and utilities, and the processing of applications or requests relating to public services,
    - (C) supplies, maintenance, and transportation,
    - (D) locally engaged staff on a temporary or regular basis,
    - (E) travel and related services,
    - (F) protective services, and
    - (G) financial and currency exchange services,

    and includes such other benefits as the Secretary may designate;
  - (2) "chancery" means the principal offices of a foreign mission used for diplomatic or related purposes, and annexes to such offices (including ancillary offices and support facilities), and includes the site and any building on such site which is used for such purposes;
  - (3) "foreign mission" means any mission to or agency or entity in the United States which is involved in the diplomatic, consular, or other activities of, or which is substantially owned or effectively controlled by -
    - (A) a foreign government, or
    - (B) an organization (other than an international organization, as defined in section 4309(b) of this title) representing a territory 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.

Sec. 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.
- (4) As determined by the Secretary, designate an office within the Department of State to carry out the purposes of this chapter. 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.

Sec. 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 202 of title 3 or section 3056 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 Foreign Service Buildings Fund) for such purpose to the Working Capital Fund, as provided in section 4308(h)(1) of this title. Except for funds that may be provided by a foreign government for the purchase of property, only funds transferred under the preceding sentence may be used for the purposes of subsection (b)(5) of this section.
  - (2) The Secretary of State may acquire property in the United States for the purposes of subsection (b)(5) of this section only in the context of a specific reciprocal agreement with a specified foreign government. Property acquired by the United States in the foreign country through such an exchange shall benefit the United States at least to the same extent as the property acquired in the United States benefits the foreign government.
  - (3) The Secretary of State shall prescribe regulations for the implementation of any in-kind exchange of properties pursuant to subsection (b)(5) of this section.
  - (4) At least 15 days before entering into any reciprocal agreement for the exchange of property with another foreign government, the Secretary of State shall notify the Committee on Foreign Affairs and the Committee on Public Works and Transportation of the House of Representatives and the Committee on Foreign Relations of the Senate.
  - (5)
    - (A) Proceeds from the disposition of properties acquired pursuant to this subsection shall be credited to the Foreign Service Buildings Fund (referred to in section 9 of the Foreign Service Buildings Act, 1926 (22 U.S.C. 300)).
    - (B) The authority to spend proceeds received under subparagraph (A) may be exercised only to such extent or in such amounts as are provided in advance in an appropriation Act.

Sec. 4304a. Enforcement of compliance with liability insurance requirements

- (a) Notice to Secretary by head of foreign mission of lapse or termination of coverage; report to Secretary by head of foreign mission respecting motor vehicles, vessels and aircraft registered in United States
  - (1) The head of a foreign mission shall notify promptly the Secretary of the lapse or termination of any liability insurance coverage held by a member of the mission, by a member of the family of such member, or by an individual described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946.
  - (2) Not later than February 1 of each year, the head of each foreign mission shall prepare and transmit to the Secretary a report including a list of motor vehicles, vessels, and aircraft registered in the United States by members of the mission, members of the families of such members, individuals described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, and by the mission itself. Such list shall set forth for each such motor vehicle, vessel, or aircraft -
    - (A) the jurisdiction in which it is registered;
    - (B) the name of the insured;
    - (C) the name of the insurance company;
    - (D) the insurance policy number and the extent of insurance coverage; and
    - (E) such other information as the Secretary may prescribe.

- (b) Surcharge or fee covering unsatisfied part of judgment; preconditions for imposition
  Whenever the Secretary finds that a member of a foreign mission, a member of the family of such member, or an individual described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946 -
  - (1) is at fault for personal injury, death, or property damage arising out of the operation of a motor vehicle, vessel, or aircraft in the United States,
  - (2) is not covered by liability insurance, and
  - (3) has not satisfied a court-rendered judgment against him or is not legally liable, the Secretary shall impose a surcharge or fee on the foreign mission of which such member or individual is a part, amounting to the unsatisfied portion of the judgment rendered against such member or individual or, if there is no court-rendered judgment, an estimated amount of damages incurred by the victim. The payment of any such surcharge or fee shall be available only for compensation of the victim or his estate.

- (c) Definitions
  For purposes of this section -
  - (1) the term "head of a foreign mission" has the same meaning as is ascribed to the term "head of a mission" in Article 1 of the Vienna Convention on Diplomatic Relations of April 18, 1961 (T.I.A.S. numbered 7502; 23 U.S.T. 3227); and
  - (2) the terms "members of a mission" and "family" have the same meanings as is ascribed to them by paragraphs (1) and (2) of section 254a of this title.

Sec. 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) Divesture
  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 prevent 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.

Sec. 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.
  - (2) Proposed actions of the Zoning Commission concerning implementation of this section shall be referred to the National Capital Planning Commission for review and comment.

- (f) Rule-making nature of proceedings
  Regulations issued to carry out this section shall provide for proceedings of a rule-making and not of an adjudicatory nature.

- (g) Compliance with District of Columbia building and related codes
  The Secretary shall require foreign missions to comply substantially with District of Columbia building and related codes in a manner determined by the Secretary to be not inconsistent with the international obligations of the United States.

- (h) Approval of Board of Zoning Adjustment or Zoning Commission not required
  Approval by the Board of Zoning Adjustment or the Zoning Commission or, except as provided in section 4305 of this title, by any other agency or official is not required -
  - (1) for the location, replacement, or expansion of a chancery to the extent that authority to proceed, or rights or interests, with respect to such location, replacement, or expansion were granted to or otherwise acquired by the foreign mission before October 1, 1982; or
  - (2) for continuing use of a chancery by a foreign mission to the extent that the chancery was being used by a foreign mission on October 1, 1982.

- (i) Membership on Zoning Commission and Board of Zoning Adjustment
  - (1) The President may designate the Secretary of Defense, the Secretary of the Interior, or the Administrator of General Services (or such alternate as such official may from time to time designate) to serve as a member of the Zoning Commission in lieu of the Director of the National Park Service whenever the President determines that the Zoning Commission is performing functions concerning the implementation of this section.
  - (2) Whenever the Board of Zoning Adjustment is performing functions regarding an application by a foreign mission with respect to the location, expansion, or replacement of a chancery -
    - (A) the representative from the Zoning Commission shall be the Director of the National Park Service or if another person has been designated under paragraph (1) of this subsection, the

person so designated; and

- (B) the representative from the National Capital Planning Commission shall be the Executive Director of that Commission.
    - (j) Application of other laws
      Provisions of law (other than this chapter) applicable with respect to the location, replacement, or expansion of real property in the District of Columbia shall apply with respect to chanceries only to the extent that they are consistent with this section.

Sec. 4307. Preemption

Notwithstanding any other law, no act of any Federal agency shall be effective to confer or deny any benefit with respect to any foreign mission contrary to this chapter. Nothing in section 4302, 4303, 4304, or 4305 of this title may be construed to preempt any State or municipal law or governmental authority regarding zoning, land use, health, safety, or welfare, except that a denial by the Secretary involving a benefit for a foreign mission within the jurisdiction of a particular State or local government shall be controlling.

Sec. 4308. General provisions

- (a) Issuance of regulations
  The Secretary may issue such regulations as the Secretary may determine necessary to carry out the policy of this chapter.

- (b) Discharge of obligation; liability
  Compliance with any regulation, instruction, or direction issued by the Secretary under this chapter shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court or administrative proceeding for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, this chapter, or any regulation, instruction, or direction issued by the Secretary under this chapter.

- (c) Use of employees from other Federal agencies; experts and consultants
  For purposes of administering this chapter -
  - (1) the Secretary may accept details and assignments of employees of Federal agencies to the Department of State on a reimbursable or nonreimbursable basis (with any such reimbursements to be credited to the appropriations made available for the salaries and expenses of officers and employees of the employing agency); and
  - (2) the Secretary may, to the extent necessary to obtain services without delay, exercise his authority to employ experts and consultants under section 3109 of title 5 without requiring compliance with such otherwise applicable requirements for that employment as the Secretary may determine, except that such employment shall be terminated after 60 days if by that time those requirements are not complied with.

- (d) Contracts and subcontracts for supplies and services; advertisement; factors considered
  Contracts and subcontracts for supplies or services, including personal services, made by or on behalf of the Secretary shall be made after advertising, in such manner and at such times as the Secretary shall determine to be adequate to ensure notice and opportunity for competition, except that advertisement shall not be required when (1) the Secretary determines that it is impracticable or will not permit timely performance to obtain bids by advertising, or (2) the aggregate amount involved in a purchase of supplies or procurement of services does not exceed $10,000. Such contracts and subcontracts may be entered into without regard to laws and regulations otherwise applicable to solicitation, negotiation, administration, and performance of government contracts. In awarding contracts, the Secretary may consider such factors as relative quality and availability of supplies or services and the compatibility of the supplies or services with implementation of this chapter.

- (e) Transfer or loan of property to or from Department of State
  The head of any Federal agency may, for purposes of this chapter -
  - (1) transfer or loan any property to, and perform administrative and technical support functions and services for the operations of, the Department of State (with reimbursements to agencies under this paragraph to be credited to the current applicable appropriation of the agency concerned); and
  - (2) acquire and accept services from the Department of State, including (whenever the Secretary determines it to be in furtherance of the purposes of this chapter) acquisitions without

regard to laws normally applicable to the acquisition of services by such agency.

- (f) Attachment, execution, etc., of assets
  Assets of or under the control of the Department of State, wherever situated, which are used by or held for the use of a foreign mission shall not be subject to attachment, execution, injunction, or similar process, whether intermediate or final.

- (g) Discretion of Secretary
  Except as otherwise provided, any determination required under this chapter shall be committed to the discretion of the Secretary.

- (h) Transfer and credit of funds
  - (1) In order to implement this chapter, the Secretary may transfer to the working capital fund established by section 2684 of this title such amounts available to the Department of State as may be necessary.
  - (2) All revenues, including proceeds from gifts and donations, received by the Secretary in carrying out this chapter may be credited to the working capital fund established by section 2684 of this title and shall be available for purposes of this chapter in accordance with that section.
  - (3) Only amounts transferred or credited to the working capital fund established by section 2684 of this title may be used in carrying out the functions of the Secretary or the Director under this chapter.

Sec. 4309. Application to public international organizations and official missions to such organizations

- (a) Determination by Secretary
  The Secretary may make section 4306 of this title, or any other provision of this chapter, applicable with respect to an international organization to the same extent that it is applicable with respect to a foreign mission if the Secretary determines that such application is necessary to carry out the policy set forth in section 4301(b) of this title and to further the objectives set forth in section 4304(b) of this title.

- (b) "International organization" defined
  For purposes of this section, "international organization" means -
  - (1) a public international organization designated as such pursuant to the International Organizations Immunities Act (22 U.S.C. 288 - 288f-2) or a public international organization created pursuant to a treaty or other international agreement as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs; and
  - (2) an official mission (other than a United States mission) to such a public international organization, including any real property of such an organization or mission and including the personnel of such an organization or mission.

Sec. 4309a. United States responsibilities for employees of the United Nations

- (a) Findings
  The Congress finds that -
  - (1) pursuant to the Agreement Between the United States and the United Nations Regarding the Headquarters of the United Nations (authorized by Public Law 80-357 (22 U.S.C. 287 note)), the United States has accepted -
    - (A) the obligation to permit and to facilitate the right of individuals, who are employed by or are authorized by the United Nations to conduct official business in connection with that organization or its agencies, to enter into and exit from the United States for purposes of conducting official activities within the United Nations Headquarters District, subject to regulation as to points of entry and departure; and
    - (B) the implied obligation to permit and to facilitate the acquisition of facilities in order to conduct such activities within or in proximity to the United Nations Headquarters District, subject to reasonable regulation including regulation of the location and size of such facilities; and
  - (2) taking into account paragraph (1) and consistent with the obligation of the United States to facilitate the functioning of the United Nations, the United States has no additional obligation to permit the conduct of any other activities, including nonofficial activities, by such individuals outside of the United Nations Headquarters District.

- (b) Activities of United Nations employees
  - (1) The conduct of any activities, or the acquisition of any benefits (as defined in section 4301(a)(1) of this title), outside the United Nations Headquarters District by any individual employed by, or authorized by the United Nations to conduct official business in connection with, that organization or its agencies, or by any person or agency acting on behalf thereof, may be permitted or denied or subject to reasonable regulation, as determined to be in the best interests of the United States and pursuant to this chapter.
  - (2) Repealed. Pub. L. 103-236, title I, Sec. 139(26), Apr. 30, 1994, 108 Stat. 399.

- (c) Reports
  The Secretary shall report to the Congress -
  - (1) not later than 30 days after August 16, 1985, on the plans of the Secretary for implementing this section; and
  - (2) not later than 6 months thereafter, on the actions taken pursuant to those plans.

- (d) United States nationals
  This section shall not apply with respect to any United States national.

- (e) "United Nations Headquarters District" defined
  For purposes of this section, the term "United Nations Headquarters District" means the area within the United States which is agreed to by the United Nations and the United States to constitute such a district, together with such other areas as the Secretary of State may approve from time to time in order to permit effective functioning of the United Nations or missions to the United Nations.

Sec. 4310. Privileges and immunities

Nothing in this chapter shall be construed to limit the authority of the United States to carry out its international obligations, or to supersede or limit immunities otherwise available by law. No act or omission by any foreign mission, public international organization, or official mission to such an organization, in compliance with this chapter shall be deemed to be an implied waiver of any immunity otherwise provided for by law.

Sec. 4311. Enforcement

- (a) Benefits to foreign missions contrary to this chapter; standing of United States to bring action for compliance
  It shall be unlawful for any person to make available any benefits to a foreign mission contrary to this chapter. The United States, acting on its own behalf or on behalf of a foreign mission, has standing to bring or intervene in an action to obtain compliance with this chapter, including any action for injunctive or other equitable relief.

- (b) Advice of Secretary concerning transactions with foreign missions
  Upon the request of any Federal agency, any State or local government agency, or any business or other person that proposes to enter into a contract or other transaction with a foreign mission, the Secretary shall advise whether the proposed transaction is prohibited by any regulation or determination of the Secretary under this chapter.

Sec. 4312. Presidential guidelines

The authorities granted to the Secretary pursuant to the provisions of this chapter shall be exercised in accordance with procedures and guidelines approved by the President.

Sec. 4313. Severability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to any other person or circumstance shall not be affected thereby.

Sec. 4314. Extraordinary protective services

- (a) General authority
  The Secretary may provide extraordinary protective services for foreign missions directly, by contract, or through State or local authority to the extent deemed necessary by the Secretary in carrying out this chapter, except that the Secretary may not provide under this section any protective services for which authority exists to provide such services under sections 202(7) and 208 of title 3.

- (b) Requirement of extraordinary circumstances
  The Secretary may provide funds to a State or local authority for protective services under this section only if the Secretary has determined that a threat of violence, or other circumstances, exists which requires extraordinary security measures which exceed those which local law enforcment agencies can reasonably be expected to take.

- (c) Repealed. Pub. L. 103-236, title I, Sec. 139(2), Apr. 30, 1994, 108 Stat. 397

- (d) Restrictions on use of funds
  Of the funds made available for obligation under this section in any fiscal year -
  - (1) not more than 20 percent may be obligated for protective services within any single State during that year; and
  - (2) not less than 15 percent shall be retained as a reserve for protective services provided directly by the Secretary or for expenditures in local jurisdictions not otherwise covered by an agreement for protective services under this section. The limitations on funds available for obligation in this subsection shall not apply to unobligated funds during the final quarter of any fiscal year.

- (e) Period of agreement with State or local authority
  Any agreement with a State or local authority for the provision of protective services under this section shall be for a period of not to exceed 90 days in any calendar year, but such agreements may be renewed after review by the Secretary.

- (f) Requirement for appropriations
  Contracts may be entered into in carrying out this section only to such extent or in such amounts as are provided in advance in appropriation Acts.

- (g) Working capital fund
  Amounts used to carry out this section shall not be subject to section 4308(h) of this title.

Sec. 4315. Use of foreign mission in manner incompatible with its status as foreign mission

- (a) Establishment of limitation on certain uses
  A foreign mission may not allow an unaffiliated alien the use of any premise of that foreign mission which is inviolable under United States law (including any treaty) for any purpose which is incompatible with its status as a foreign mission, including use as a residence.

- (b) Temporary lodging
  For the purposes of this section, the term "residence" does not include such temporary lodging as may be permitted under regulations issued by the Secretary.

- (c) Waiver
  The Secretary may waive subsection (a) of this section with respect to all foreign missions of a country (and may revoke such a waiver) 30 days after providing written notification of such a waiver, together with the reasons for such waiver (or revocation of such a waiver), to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

- (d) Report
  Not later than 180 days after December 22, 1987, the Secretary of State shall submit a report to the Congress concerning the implementation of this section and shall submit such other reports to the Congress concerning changes in implementation as may be necessary.

- (e) Definitions
  For the purposes of this section -
  - (1) the term "foreign mission" includes any international organization as defined in section 4309(b) of this title; and
  - (2) the term "unaffiliated alien" means, with respect to a foreign country, an alien who -
    - (A) is admitted to the United States as a nonimmigrant, and
    - (B) is not a member, or a family member of a member, of a foreign mission of that foreign country.

Sec. 4316. Application of travel restrictions to personnel of certain countries and organizations

- (a) Requirement for restrictions
  The Secretary shall apply the same generally applicable restrictions to the travel while in the United States of the individuals described in subsection (b) of this section as are applied under this chapter to the members of the missions of the Soviet Union in the United States.

- (b) Individuals subject to restrictions
  The restrictions required by subsection (a) of this section shall be applied with respect to those individuals who (as determined by the Secretary) are -
  - (1) the personnel of an international organization, if the individual is a national of any foreign country whose government engages in intelligence activities in the United States that are harmful to the national security of the United States;
  - (2) the personnel of a mission to an international organization, if that mission is the mission of a foreign government that engages in intelligence activities in the United States that are harmful to the national security of the United States; or
  - (3) the family members or dependents of an individual described in paragraphs (1) and (2); and who are not nationals or permanent resident aliens of the United States.

- (c) Waivers
  The Secretary, after consultation with the Director of Central Intelligence and the Director of the Federal Bureau of Investigation, may waive application of the restrictions required by subsection (a) of this section if the Secretary determines that the national security and foreign policy interests of the United States so require.

- (d) Repealed. Pub. L. 103-236, title I, Sec. 139(3), Apr. 30, 1994, 108 Stat. 397

- (e) Definitions
  For purposes of this section -
  - (1) the term "generally applicable restrictions" means any limitations on the radius within which unrestricted travel is permitted and obtaining travel services through the auspices of the Office of Foreign Missions for travel elsewhere, and does not include any restrictions which unconditionally prohibit the members of missions of the Soviet Union in the United States from traveling to designated areas of the United States and which are applied as a result of particular factors in relations between the United States and the Soviet Union.
  - (2) the term "international organization" means an organization described in section 4309(b)(1) of this title; and
  - (3) the term "personnel" includes -
    - (A) officers, employees, and any other staff member, and
    - (B) any individual who is retained under contract or other arrangement to serve functions similar to those of an officer, employee, or other staff member.