

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

- v. - :

15 Cr. 706 (VSB)

FRANCIS LORENZO, :
a/k/a "Frank Lorenzo," :

Defendant. :

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**MEMORANDUM OF LAW OF THE UNITED STATES OF AMERICA
IN OPPOSITION TO DEFENDANT FRANCIS LORENZO'S MOTION
TO DISMISS THE INDICTMENT**

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PRELIMINARY STATEMENT

Defendant Francis Lorenzo, a/k/a "Frank Lorenzo" ("Lorenzo") has been charged with bribery, money laundering, and conspiracy to do the same, in connection with his employment by a private entity that bribed United Nations and foreign officials. Lorenzo now moves to dismiss the charges on the ground that he allegedly has diplomatic immunity protecting him from prosecution, based on his former diplomatic position at the Dominican Republic Mission to the United Nations. The law is clear, however, that he does not have—and never had—such immunity. As a United States citizen, Lorenzo was not conferred diplomatic immunity from prosecution, and he may be prosecuted for acts other than those official acts taken in connection with his former official position. In his motion, Lorenzo does not claim that he is being prosecuted for such official acts, but rather alleges that he is completely immune from prosecution. Lorenzo fails to even mention, much less address, the dispositive fact that all relevant times he has been a United States citizen, which defeats his diplomatic immunity defense as a matter of law. Accordingly, for the reasons set forth below and in the accompanying statement from the United States Department of State, Lorenzo's motion to dismiss the Indictment should be denied.

APPLICABLE LAW

A. Immunity

1. Diplomatic Immunity - Generally

Title 22, United States Code, Section 254d provides that “[a]ny action or proceeding brought against an individual who is entitled to immunity with respect to such action or proceeding under the Vienna Convention on Diplomatic Relations or under any other laws extending diplomatic privileges and immunities, shall be dismissed.” The rules governing the immunity accorded to diplomatic agents assigned to the permanent missions to the United Nations (“UN) are embodied primarily in two international treaties: the United Nations Headquarters Agreement (“UN HQA”), Stat. 3416, 11 U.N.T.S. 11 (entered into force Nov. 21, 1947), and the Vienna Convention on Diplomatic Relations (“VCDR”), 23 U.S.T. 3227, TIAS No. 7502, 500 UNTS 95 (entered into force for the United States Dec. 13, 1972) (attached hereto as Exhibit A). The United States is a party to these treaties and they, along with certain domestic legislation enacted to implement them, provide the governing law in this area. *See generally* United States Department of State, Office of Foreign Missions, Diplomatic and Consular Immunity, Guidance for Law Enforcement and Judicial Authorities, Department of State Publication (2015), *available at* <http://www.state.gov/documents/organization/150546.pdf> (the “State Department Publication”) (attached hereto as Exhibit B).

As a general rule, diplomatic-level staff assigned to permanent missions to the UN enjoy diplomatic immunity, just as diplomatic agents of embassies to the United States do. *See generally* State Department Publication at p. 14. Section 15 of the UN HQA provides that “such resident representatives of the[] staffs [of the permanent missions] . . . shall . . . be entitled in the territory of the United States to the same privileges and immunities, subject to corresponding

conditions and obligations, as it accords to diplomatic envoys accredited to it.” UN HQA Section 15 (attached hereto as Exhibit C). In the United States (as elsewhere), the immunities of “diplomatic envoys” are those provided under the VCDR. Under the VCDR, “diplomatic agents” (synonymous with the UN HQA’s “diplomatic envoys” for this purpose) generally enjoy personal inviolability from “any form of arrest or detention.” VCDR Art. 29. Moreover, under Article 31, diplomatic agents generally “enjoy immunity from the criminal jurisdiction of the receiving State.” *Id.* Art. 31(1). However, as set forth below, Article 38 of the VCDR eliminates this diplomatic immunity from criminal prosecution for United States permanent residents and nationals serving as diplomatic agents.

2. Official Acts Immunity of United States Permanent Residents and Nationals

The law treats United States permanent residents and nationals (citizens and non-citizen nationals) differently from non-nationals. Specifically, Article 38 of the VCDR provides that “[e]xcept insofar as additional privileges and immunities may be granted by the receiving State, a diplomatic agent *who is a national of or permanently resident in that State* shall enjoy *only* immunity from jurisdiction, and inviolability, *in respect of official acts* performed in the exercise of his functions.” VCDR Art. 38(1) (emphasis added). The United States does not confer diplomatic immunity to its own citizens who are diplomats at permanent missions to the UN. *See* Letter of James B. Donovan, Minister-Counselor for Host Country Affairs, United States Mission to the United Nations, dated Dec. 30, 2015 (“Donovan Letter” or “Donovan Ltr.”) ¶ 2 (attached hereto as Exhibit D).¹ Rather, U.S. citizens who are diplomats assigned to

¹ “Diplomatic immunity,” under which a diplomatic agent enjoys complete immunity from prosecution, is distinct from “official acts immunity,” under which a diplomatic agent may be arrested and prosecuted for acts other than official acts. *See, e.g., Brzak v. United Nations*, 597 F.3d 107, 113 (2d Cir. 2010) (determining immunity claims by former UN officials who had only official acts immunity, not full diplomatic immunity).

the permanent missions of foreign governments to the UN enjoy immunity only for their official acts. *Id.* (“It is the policy and practice of the United States, that United States citizens working in a diplomatic capacity for a foreign government’s permanent mission at the UN enjoy only official acts immunity, not diplomatic immunity.”).

Consistent with the foregoing, the United States has used circular diplomatic notes to advise Permanent Missions to the UN of the requirements to obtain diplomatic privileges and immunities in the United States. *See* Donovan Ltr. ¶ 3. In one such note, dated January 27, 2010 (attached to the Donovan Letter), the United States Mission to the UN informed all other missions that, to obtain diplomatic privileges and immunities in the United States under Section 15 of UN HQA, a diplomatic envoy must, among other things, be a national of the “Member State,” meaning the foreign country that the envoy represents, *and* “possess an appropriate non-immigrant status in the United States.” *Id.* at 3-4. United States citizens do not have non-immigrant status in the United States and, accordingly, United States citizens working in a diplomatic capacity for a foreign government’s mission to the UN enjoy only official acts immunity, not diplomatic immunity. *See id.* ¶ 2.²

The United Nations has agreed with the United States’ exclusion of United States citizens and permanent residents from the categories of those entitled to diplomatic privileges and immunities. *See* United Nations Manual of Protocol (“UN Protocol Manual”), Section VI (“It is important to note that diplomatic privileges and immunities are not granted to members of diplomatic personnel who are citizens or permanent residents of the United States.”); *available at* <https://www.un.int/protocol/pm/menus-3-6>.

² In addition, the sending State may waive a diplomat’s immunity, including as to official acts. VCDR Art. 32(1); 22 U.S.C. § 288d(b).

B. State Department Determinations as to Immunity Status

“A court’s reliance on the State Department’s certification when determining diplomatic immunity has a long history in this country’s jurisprudence.” *United States v. Kuznetsov*, 442 F. Supp. 2d 102, 106 (S.D.N.Y. 2006). As far back as 1890, the Supreme Court stated that “the certificate of the Secretary of State . . . is the best evidence to prove the diplomatic character of a person.” *In re Baiz*, 135 U.S. 403, 421 (1890). Indeed, “courts have generally accepted as conclusive the views of the State Department as to the fact of diplomatic status.” *Abdulaziz v. Metropolitan Dade County*, 741 F.2d 1328, 1331 (11th Cir. 1984); *see also Kuznetsov*, 442 F. Supp. 2d at 107 (observing that “courts have continued to find that recognition and certification by the State Department is necessary to establish diplomatic immunity”).

RELEVANT FACTS

A. Lorenzo’s Status in the United States

On or about January 26, 1985, Lorenzo immigrated to the United States from the Dominican Republic. (Ex. E at 1). Upon arrival, Lorenzo was granted status as a lawful permanent resident (“LPR”) of the United States, also on or about January 26, 1985. *Id.* Lorenzo later petitioned for citizenship and, approximately six and a half years later, on or about August 21, 1991, Lorenzo was naturalized as a United States citizen. (Ex. F).

On September 3, 2004, Lorenzo was appointed by the Dominican Republic to be its Deputy Permanent Representative to the United Nations. (Mot. Ex. 1). Lorenzo was subsequently recognized as such by the State Department as of October 11, 2004. Donovan Ltr.

¶ 1. Consistent with the fact that United States does not grant any privileges or immunities beyond official acts immunity to United States nationals such as Lorenzo, the State Department did not recognize Lorenzo to have any additional immunity when it accredited him to his

diplomatic position. *See id.* ¶ 2. Rather, throughout the time he was Deputy Permanent Representative, the State Department recognized Lorenzo to have only official acts immunity—just like any other national of the United States who chose to work as a diplomatic agent at a UN permanent mission. *See id.* In short, the State Department has never recognized Lorenzo to have diplomatic immunity. *Id.*

B. The Criminal Charges

On October 5, 2015, Lorenzo was charged by complaint (the “Complaint”) with bribery conspiracy and bribery, in violation of Title 18, United States Code, Sections 371 and 666. He was arrested the next day, October 6, 2015.³

On October 20, 2015, the grand jury returned the Indictment, which included the same charges as the Complaint, and also charged Lorenzo with money laundering and conspiracy to do the same, in violation of Title 18, United States Code, Section 1956.

As described greater detail in the Complaint, the charges against Lorenzo stem from his employment by his co-defendant Ng Lap Seng, a/k/a “David Ng,” a/k/a “David Ng Lap Seng” (“Ng”), a Macau-based real estate and casino developer. Complaint ¶ 16. In or about 2009, while Lorenzo was simultaneously serving in his diplomatic position, Ng began paying Lorenzo, among other things, approximately \$20,000 a month to be the “Honorary President” of a New York-based nongovernmental organization (“NGO-1”). *Id.* ¶ 17. As alleged, between Spring 2011 and December 2014, Ng and Lorenzo used NGO-1 to pay bribes to other UN and foreign officials, including co-defendant John W. Ashe (“Ashe”), who was the UN Ambassador for Antigua and Barbuda and the 68th President of the UN General Assembly. Among other things,

³ Two days later, on October 8, 2015, Lorenzo was suspended by the Dominican Republic UN Mission for a period of at least six months, which the State Department treated as a termination of Lorenzo’s diplomatic status. *See Donovan Ltr.* ¶ 4.

Ng and Lorenzo funneled payments to Ashe in exchange for Ashe using his official position to further the business interests of Ng, who was seeking to build a multi-billion dollar UN conference center in Macau.

ARGUMENT

LORENZO DOES NOT HAVE DIPLOMATIC IMMUNITY

Lorenzo has never enjoyed the diplomatic immunity that is sole basis for his motion. Rather, his former position as a diplomat gave him immunity from prosecution only for his official acts. As set forth above, Lorenzo has been an LPR since 1986, and a United States citizen since 1991—long before he took the acts alleged to have been criminal. This undisputed fact conclusively defeats his diplomatic immunity claim. In his motion, Lorenzo does not present any argument to the contrary, nor could he. Rather, Lorenzo presses his motion based exclusively on a claim that he enjoyed complete diplomatic immunity. That claim is incorrect as a matter of law and fact.

As set forth above, the UN HQA, which governs immunity for UN diplomats, provides that the immunities enjoyed by such diplomats are conterminous with the immunities enjoyed by diplomatic envoys of foreign states. *See* UN HQA Section 15. In the United States, the immunity afforded to diplomatic envoys is governed by VCDR, which expressly provides that a diplomatic agent, who is a “national of or permanently resident in” the United States, enjoys immunity only “*in respect of official acts*,” unless otherwise recognized by law. VCDR Art. 38(1) (emphasis added); Donovan Ltr. ¶ 2. The United States does not recognize any additional immunity for representatives to the UN who are its nationals or permanent residents in the United States. *See* Donovan Ltr. ¶ 2. The United Nations has agreed with the exclusion of United States citizens and permanent residents from the categories of those entitled to diplomatic

privileges and immunities. *See* UN Protocol Manual, Sec. VI. Accordingly, diplomatic agents such as Lorenzo, who are citizens or permanent residents of the United States, may be arrested and prosecuted for all acts other than official acts.

Thus, when Lorenzo was appointed, the State Department recognized him to have only official acts immunity, in light of his status as a United States citizen. *See* Donovan Ltr. ¶ 2. Accordingly, Lorenzo had only official acts immunity—both as a matter of law and as a matter of fact—and he has never had the diplomatic immunity from prosecution upon which his motion relies. *See id.*

In his motion, Lorenzo does not acknowledge, much less dispute that, by operation of law, his United States citizenship means he cannot and did not have diplomatic immunity. Instead, Lorenzo cites Article 31 of the VCDR, which states the general rule that “a diplomatic agent shall enjoy immunity from the criminal jurisdiction of receiving State.” (Mot. 4). Lorenzo does not cite, or even mention, Article 38 of the VCDR, which, by its plain language, limits immunity to official acts immunity for citizens and permanent residents of the receiving State (here, the United States), such as himself.⁴

Lorenzo also cites a number of cases, all of which involve diplomatic immunity claims made by non-U.S. permanent residents and nationals under Article 31 of the VCDR, and are thus irrelevant. (*See e.g.*, Mot. 3-4 (citing *Devi v. Silva*, 861 F. Supp. 2d 135, 141 (S.D.N.Y. 2012) (determining diplomatic immunity claim by Sri Lankan Deputy UN Ambassador under VCDR Article 31); *United States v. Khobragade*, 15 F. Supp. 3d 383, 388 (S.D.N.Y. 2014) (same for citizen of Indian appointed as Counselor to Indian UN Mission)); *cf. Brzak v. United Nations*,

⁴ Lorenzo does not assert that the acts with which he is charged were official acts. (Mot. 4 n.3). Rather, he states that “this Court need not analyze the acts alleged . . . in deciding this Motion.” (Mot. 10).

597 F.3d 107, 113 (2d Cir. 2010) (determining immunity claims by former UN officials who had only official acts immunity, not full diplomatic immunity).⁵

In sum, as set forth above, Lorenzo's immunity from prosecution claim is defeated by the plain language of the UN HQA and the VCDR. The conclusion that Lorenzo's motion should be denied is fully supported by the attached letter from the United States Mission to the United Nations. The statement confirms that Lorenzo does not enjoy diplomatic immunity but only immunity for official acts. *See* Donovan Ltr. ¶ 2. As discussed above, "the courts have generally accepted as conclusive the views of the State Department as to the fact of diplomatic status." *Abdulaziz*, 741 F.2d at 1331; *see also In re Baiz*, 135 U.S. at 421; *Kuznetsov*, 442 F. Supp. 2d at 107. The State Department examined Lorenzo's status and determined that:

As a United States citizen, Ambassador Lorenzo did not satisfy established Department of State criteria required to be considered for diplomatic privileges and immunities. To enjoy diplomatic privileges and immunities, Ambassador Lorenzo would have to show, *inter alia*, that he is not a United States citizen and that he possessed an appropriate non-immigrant status in the United States. It is the policy and practice of the United States, that United States citizens working in a diplomatic capacity for a foreign government's permanent mission at the UN enjoy only official acts immunity, not diplomatic immunity. Accordingly, Mr. Lorenzo had only official acts immunity for the time period given.

Donovan Ltr. ¶ 2.

Thus, the State Department's views further support the denial of Lorenzo's motion to dismiss the Indictment.

⁵ Lorenzo also makes several arguments and cites several cases related to whether diplomatic immunity depends on a defendant's status at the time of his arrest (Mot. 6-9), which is also irrelevant to his motion since Lorenzo *never* enjoyed any immunity other than official acts immunity.


CONCLUSION

The defendant's motion to dismiss the Indictment should be denied.

Dated: New York, New York
January 5, 2016

Respectfully submitted,

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Vienna Convention on Diplomatic Relations
1961

Done at Vienna on 18 April 1961. Entered into force on 24 April 1964.
United Nations, *Treaty Series*, vol. 500, p. 95.



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2005

Vienna Convention on Diplomatic Relations
Done at Vienna on 18 April 1961

The States Parties to the present Convention,

Recalling that peoples of all nations from ancient times have recognized the status of diplomatic agents,

Having in mind the purposes and principles of the Charter of the United Nations concerning the sovereign equality of States, the maintenance of international peace and security, and the promotion of friendly relations among nations,

Believing that an international convention on diplomatic intercourse, privileges and immunities would contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems,

Realizing that the purpose of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of the functions of diplomatic missions as representing States,

Affirming that the rules of customary international law should continue to govern questions not expressly regulated by the provisions of the present Convention,

Have agreed as follows:

Article 1

For the purpose of the present Convention, the following expressions shall have the meanings hereunder assigned to them:

- (a) The “head of the mission” is the person charged by the sending State with the duty of acting in that capacity;
- (b) The “members of the mission” are the head of the mission and the members of the staff of the mission;
- (c) The “members of the staff of the mission” are the members of the diplomatic staff, of the administrative and technical staff and of the service staff of the mission;
- (d) The “members of the diplomatic staff” are the members of the staff of the mission having diplomatic rank;
- (e) A “diplomatic agent” is the head of the mission or a member of the diplomatic staff of the mission;
- (f) The “members of the administrative and technical staff” are the members of the staff of the mission employed in the administrative and technical service of the mission;

(g) The “members of the service staff” are the members of the staff of the mission in the domestic service of the mission;

(h) A “private servant” is a person who is in the domestic service of a member of the mission and who is not an employee of the sending State;

(i) The “premises of the mission” are the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used for the purposes of the mission including the residence of the head of the mission.

Article 2

The establishment of diplomatic relations between States, and of permanent diplomatic missions, takes place by mutual consent.

Article 3

1. The functions of a diplomatic mission consist, inter alia, in:

- (a) Representing the sending State in the receiving State;
- (b) Protecting in the receiving State the interests of the sending State and of its nationals, within the limits permitted by international law;
- (c) Negotiating with the Government of the receiving State;
- (d) Ascertaining by all lawful means conditions and developments in the receiving State, and reporting thereon to the Government of the sending State;
- (e) Promoting friendly relations between the sending State and the receiving State, and developing their economic, cultural and scientific relations.

2. Nothing in the present Convention shall be construed as preventing the performance of consular functions by a diplomatic mission.

Article 4

1. The sending State must make certain that the *agrément* of the receiving State has been given for the person it proposes to accredit as head of the mission to that State.

2. The receiving State is not obliged to give reasons to the sending State for a refusal of *agrément*.

Article 5

1. The sending State may, after it has given due notification to the receiving States concerned, accredit a head of mission or assign any member of the diplomatic staff, as the case may be, to more than one State, unless there is express objection by any of the receiving States.

2. If the sending State accredits a head of mission to one or more other States it may establish a diplomatic mission headed by a chargé d'affaires ad interim in each State where the head of mission has not his permanent seat.

3. A head of mission or any member of the diplomatic staff of the mission may act as representative of the sending State to any international organization.

Article 6

Two or more States may accredit the same person as head of mission to another State, unless objection is offered by the receiving State.

Article 7

Subject to the provisions of articles 5, 8, 9 and 11, the sending State may freely appoint the members of the staff of the mission. In the case of military, naval or air attachés, the receiving State may require their names to be submitted beforehand, for its approval.

Article 8

1. Members of the diplomatic staff of the mission should in principle be of the nationality of the sending State.

2. Members of the diplomatic staff of the mission may not be appointed from among persons having the nationality of the receiving State, except with the consent of that State which may be withdrawn at any time.

3. The receiving State may reserve the same right with regard to nationals of a third State who are not also nationals of the sending State.

Article 9

1. The receiving State may at any time and without having to explain its decision, notify the sending State that the head of the mission or any member of the diplomatic staff of the mission is persona non grata or that any other member of the staff of the mission is not acceptable. In any such case, the sending State shall, as appropriate, either recall the person concerned or terminate his functions with the mission. A person may be declared non grata or not acceptable before arriving in the territory of the receiving State.

2.If the sending State refuses or fails within a reasonable period to carry out its obligations under paragraph 1 of this article, the receiving State may refuse to recognize the person concerned as a member of the mission.

Article 10

1.The Ministry for Foreign Affairs of the receiving State, or such other ministry as may be agreed, shall be notified of:

(a) The appointment of members of the mission, their arrival and their final departure or the termination of their functions with the mission;

(b) The arrival and final departure of a person belonging to the family of a member of the mission and, where appropriate, the fact that a person becomes or ceases to be a member of the family of a member of the mission;

(c) The arrival and final departure of private servants in the employ of persons referred to in subparagraph (a) of this paragraph and, where appropriate, the fact that they are leaving the employ of such persons;

(d) The engagement and discharge of persons resident in the receiving State as members of the mission or private servants entitled to privileges and immunities.

2.Where possible, prior notification of arrival and final departure shall also be given.

Article 11

1.In the absence of specific agreement as to the size of the mission, the receiving State may require that the size of a mission be kept within limits considered by it to be reasonable and normal, having regard to circumstances and conditions in the receiving State and to the needs of the particular mission.

2.The receiving State may equally, within similar bounds and on a non-discriminatory basis, refuse to accept officials of a particular category.

Article 12

The sending State may not, without the prior express consent of the receiving State, establish offices forming part of the mission in localities other than those in which the mission itself is established.

Article 13

1.The head of the mission is considered as having taken up his functions in the receiving State either when he has presented his credentials or when he has notified his arrival and a true copy of his credentials has been presented to the Ministry for Foreign Affairs of the receiving State, or such other

ministry as may be agreed, in accordance with the practice prevailing in the receiving State which shall be applied in a uniform manner.

2. The order of presentation of credentials or of a true copy thereof will be determined by the date and time of the arrival of the head of the mission.

Article 14

1. Heads of mission are divided into three classes, namely:

- (a) That of ambassadors or nuncios accredited to Heads of State, and other heads of mission of equivalent rank;
- (b) That of envoys, ministers and internuncios accredited to Heads of State;
- (c) That of chargés d'affaires accredited to Ministers for Foreign Affairs.

2. Except as concerns precedence and etiquette, there shall be no differentiation between heads of mission by reason of their class.

Article 15

The class to which the heads of their missions are to be assigned shall be agreed between States.

Article 16

1. Heads of mission shall take precedence in their respective classes in the order of the date and time of taking up their functions in accordance with article 13.

2. Alterations in the credentials of a head of mission not involving any change of class shall not affect his precedence.

3. This article is without prejudice to any practice accepted by the receiving State regarding the precedence of the representative of the Holy See.

Article 17

The precedence of the members of the diplomatic staff of the mission shall be notified by the head of the mission to the Ministry for Foreign Affairs or such other ministry as may be agreed.

Article 18

The procedure to be observed in each State for the reception of heads of mission shall be uniform in respect of each class.

Article 19

1.If the post of head of the mission is vacant, or if the head of the mission is unable to perform his functions a chargé d'affaires ad interim shall act provisionally as head of the mission. The name of the chargé d'affaires ad interim shall be notified, either by the head of the mission or, in case he is unable to do so, by the Ministry for Foreign Affairs of the sending State to the Ministry for Foreign Affairs of the receiving State or such other ministry as may be agreed.

2.In cases where no member of the diplomatic staff of the mission is present in the receiving State, a member of the administrative and technical staff may, with the consent of the receiving State, be designated by the sending State to be in charge of the current administrative affairs of the mission.

Article 20

The mission and its head shall have the right to use the flag and emblem of the sending State on the premises of the mission, including the residence of the head of the mission, and on his means of transport.

Article 21

1.The receiving State shall either facilitate the acquisition on its territory, in accordance with its laws, by the sending State of premises necessary for its mission or assist the latter in obtaining accommodation in some other way.

2.It shall also, where necessary, assist missions in obtaining suitable accommodation for their members.

Article 22

1.The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.

2.The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.

3.The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution.

Article 23

1.The sending State and the head of the mission shall be exempt from all national, regional or municipal dues and taxes in respect of the premises of the mission, whether owned or leased, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in this article shall not apply to such dues and taxes payable under the law of the receiving State by persons contracting with the sending State or the head of the mission.

Article 24

The archives and documents of the mission shall be inviolable at any time and wherever they may be.

Article 25

The receiving State shall accord full facilities for the performance of the functions of the mission.

Article 26

Subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure to all members of the mission freedom of movement and travel in its territory.

Article 27

1. The receiving State shall permit and protect free communication on the part of the mission for all official purposes. In communicating with the Government and the other missions and consulates of the sending State, wherever situated, the mission may employ all appropriate means, including diplomatic couriers and messages in code or cipher. However, the mission may install and use a wireless transmitter only with the consent of the receiving State.

2. The official correspondence of the mission shall be inviolable. Official correspondence means all correspondence relating to the mission and its functions.

3. The diplomatic bag shall not be opened or detained.

4. The packages constituting the diplomatic bag must bear visible external marks of their character and may contain only diplomatic documents or articles intended for official use.

5. The diplomatic courier, who shall be provided with an official document indicating his status and the number of packages constituting the diplomatic bag, shall be protected by the receiving State in the performance of his functions. He shall enjoy person inviolability and shall not be liable to any form of arrest or detention.

6. The sending State or the mission may designate diplomatic couriers ad hoc. In such cases the provisions of paragraph 5 of this article shall also apply, except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the diplomatic bag in his charge.

7. A diplomatic bag may be entrusted to the captain of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of

packages constituting the bag but he shall not be considered to be a diplomatic courier. The mission may send one of its members to take possession of the diplomatic bag directly and freely from the captain of the aircraft.

Article 28

The fees and charges levied by the mission in the course of its official duties shall be exempt from all dues and taxes.

Article 29

The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.

Article 30

1. The private residence of a diplomatic agent shall enjoy the same inviolability and protection as the premises of the mission.

2. His papers, correspondence and, except as provided in paragraph 3 of article 31, his property, shall likewise enjoy inviolability.

Article 31

1. A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving State. He shall also enjoy immunity from its civil and administrative jurisdiction, except in the case of:

(a) A real action relating to private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;

(b) An action relating to succession in which the diplomatic agent is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;

(c) An action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions.

2. A diplomatic agent is not obliged to give evidence as a witness.

3. No measures of execution may be taken in respect of a diplomatic agent except in the cases coming under subparagraphs (a), (b) and (c) of paragraph 1 of this article, and provided that the measures concerned can be taken without infringing the inviolability of his person or of his residence.

4. The immunity of a diplomatic agent from the jurisdiction of the receiving State does not exempt him from the jurisdiction of the sending State.

Article 32

1. The immunity from jurisdiction of diplomatic agents and of persons enjoying immunity under article 37 may be waived by the sending State.

2. Waiver must always be express.

3. The initiation of proceedings by a diplomatic agent or by a person enjoying immunity from jurisdiction under article 37 shall preclude him from invoking immunity from jurisdiction in respect of any counterclaim directly connected with the principal claim.

4. Waiver of immunity from jurisdiction in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of the execution of the judgement, for which a separate waiver shall be necessary.

Article 33

1. Subject to the provisions of paragraph 3 of this article, a diplomatic agent shall with respect to services rendered for the sending State be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this article shall also apply to private servants who are in the sole employ of a diplomatic agent, on condition:

- (a) That they are not nationals of or permanently resident in the receiving State; and
- (b) That they are covered by the social security provisions which may be in force in the sending State or a third State.

3. A diplomatic agent who employs persons to whom the exemption provided for in paragraph 2 of this article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this article shall not preclude voluntary participation in the social security system of the receiving State provided that such participation is permitted by that State.

5. The provisions of this article shall not affect bilateral or multilateral agreements concerning social security concluded previously and shall not prevent the conclusion of such agreements in the future.

Article 34

A diplomatic agent shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except:

- (a) Indirect taxes of a kind which are normally incorporated in the price of goods or services;
- (b) Dues and taxes on private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;
- (c) Estate, succession or inheritance duties levied by the receiving State, subject to the provisions of paragraph 4 of article 39;
- (d) Dues and taxes on private income having its source in the receiving State and capital taxes on investments made in commercial undertakings in the receiving State;
- (e) Charges levied for specific services rendered;
- (f) Registration, court or record fees, mortgage dues and stamp duty, with respect to immovable property, subject to the provisions of article 23.

Article 35

The receiving State shall exempt diplomatic agents from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

Article 36

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:

- (a) Articles for the official use of the mission;
- (b) Articles for the personal use of a diplomatic agent or members of his family forming part of his household, including articles intended for his establishment.

2. The personal baggage of a diplomatic agent shall be exempt from inspection, unless there are serious grounds for presuming that it contains articles not covered by the exemptions mentioned in paragraph 1 of this article, or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the receiving State. Such inspection shall be conducted only in the presence of the diplomatic agent or of his authorized representative.

Article 37

1. The members of the family of a diplomatic agent forming part of his household shall, if they are not nationals of the receiving State, enjoy the privileges and immunities specified in articles 29 to 36.

2. Members of the administrative and technical staff of the mission, together with members of their families forming part of their respective households, shall, if they are not nationals of or

permanently resident in the receiving State, enjoy the privileges and immunities specified in articles 29 to 35, except that the immunity from civil and administrative jurisdiction of the receiving State specified in paragraph 1 of article 31 shall not extend to acts performed outside the course of their duties. They shall also enjoy the privileges specified in article 36, paragraph 1, in respect of articles imported at the time of first installation.

3. Members of the service staff of the mission who are not nationals of or permanently resident in the receiving State shall enjoy immunity in respect of acts performed in the course of their duties, exemption from dues and taxes on the emoluments they receive by reason of their employment and the exemption contained in article 33.

4. Private servants of members of the mission shall, if they are not nationals of or permanently resident in the receiving State, be exempt from dues and taxes on the emoluments they receive by reason of their employment. In other respects, they may enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the mission.

Article 38

1. Except insofar as additional privileges and immunities may be granted by the receiving State, a diplomatic agent who is a national of or permanently resident in that State shall enjoy only immunity from jurisdiction, and inviolability, in respect of official acts performed in the exercise of his functions.

2. Other members of the staff of the mission and private servants who are nationals of or permanently resident in the receiving State shall enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the mission.

Article 39

1. Every person entitled to privileges and immunities shall enjoy them from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when his appointment is notified to the Ministry for Foreign Affairs or such other ministry as may be agreed.

2. When the functions of a person enjoying privileges and immunities have come to an end, such privileges and immunities shall normally cease at the moment when he leaves the country, or on expiry of a reasonable period in which to do so, but shall subsist until that time, even in case of armed conflict. However, with respect to acts performed by such a person in the exercise of his functions as a member of the mission, immunity shall continue to subsist.

3. In case of the death of a member of the mission, the members of his family shall continue to enjoy the privileges and immunities to which they are entitled until the expiry of a reasonable period in which to leave the country.

4. In the event of the death of a member of the mission not a national of or permanently resident in the receiving State or a member of his family forming part of his household, the receiving State shall permit the withdrawal of the movable property of the deceased, with the exception of any property acquired in the country the export of which was prohibited at the time of his death. Estate, succession and inheritance duties shall not be levied on movable property the presence of which in the receiving State was due solely to the presence there of the deceased as a member of the mission or as a member of the family of a member of the mission.

Article 40

1. If a diplomatic agent passes through or is in the territory of a third State, which has granted him a passport visa if such visa was necessary, while proceeding to take up or to return to his post, or when returning to his own country, the third State shall accord him inviolability and such other immunities as may be required to ensure his transit or return. The same shall apply in the case of any members of his family enjoying privileges or immunities who are accompanying the diplomatic agent, or travelling separately to join him or to return to their country.

2. In circumstances similar to those specified in paragraph 1 of this article, third States shall not hinder the passage of members of the administrative and technical or service staff of a mission, and of members of their families, through their territories.

3. Third States shall accord to official correspondence and other official communications in transit, including messages in code or cipher, the same freedom and protection as is accorded by the receiving State. They shall accord to diplomatic couriers, who have been granted a passport visa if such visa was necessary, and diplomatic bags in transit, the same inviolability and protection as the receiving State is bound to accord.

4. The obligations of third States under paragraphs 1, 2 and 3 of this article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and diplomatic bags, whose presence in the territory of the third State is due to force majeure.

Article 41

1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State. They also have a duty not to interfere in the internal affairs of that State.

2. All official business with the receiving State entrusted to the mission by the sending State shall be conducted with or through the Ministry for Foreign Affairs of the receiving State or such other ministry as may be agreed.

3. The premises of the mission must not be used in any manner incompatible with the functions of the mission as laid down in the present Convention or by other rules of general international law or by any special agreements in force between the sending and the receiving State.

Article 42

A diplomatic agent shall not in the receiving State practise for personal profit any professional or commercial activity.

Article 43

The function of a diplomatic agent comes to an end, inter alia:

- (a) On notification by the sending State to the receiving State that the function of the diplomatic agent has come to an end;
- (b) On notification by the receiving State to the sending State that, in accordance with paragraph 2 of article 9, it refuses to recognize the diplomatic agent as a member of the mission.

Article 44

The receiving State must, even in case of armed conflict, grant facilities in order to enable persons enjoying privileges and immunities, other than nationals of the receiving State, and members of the families of such persons irrespective of their nationality, to leave at the earliest possible moment. It must, in particular, in case of need, place at their disposal the necessary means of transport for themselves and their property.

Article 45

If diplomatic relations are broken off between two States, or if a mission is permanently or temporarily recalled:

- (a) The receiving State must, even in case of armed conflict, respect and protect the premises of the mission, together with its property and archives;
- (b) The sending State may entrust the custody of the premises of the mission, together with its property and archives, to a third State acceptable to the receiving State;
- (c) The sending State may entrust the protection of its interests and those of its nationals to a third State acceptable to the receiving State.

Article 46

A sending State may with the prior consent of a receiving State, and at the request of a third State not represented in the receiving State, undertake the temporary protection of the interests of the third State and of its nationals.

Article 47

1. In the application of the provisions of the present Convention, the receiving State shall not discriminate as between States.

2. However, discrimination shall not be regarded as taking place:

(a) Where the receiving State applies any of the provisions of the present Convention restrictively because of a restrictive application of that provision to its mission in the sending State;

(b) Where by custom or agreement States extend to each other more favourable treatment than is required by the provisions of the present Convention.

Article 48

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention, as follows: until 31 October 1961 at the Federal Ministry for Foreign Affairs of Austria and subsequently, until 31 March 1962, at the United Nations Headquarters in New York.

Article 49

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 50

The present Convention shall remain open for accession by any State belonging to any of the four categories mentioned in article 48. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 51

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 52

The Secretary-General of the United Nations shall inform all States belonging to any of the four categories mentioned in article 48:

(a) Of signatures to the present Convention and of the deposit of instruments of ratification or accession, in accordance with articles 48, 49 and 50;

(b) Of the date on which the present Convention will enter into force, in accordance with article 51.

Article 53

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States belonging to any of the four categories mentioned in article 48.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

DONE at Vienna this eighteenth day of April one thousand nine hundred and sixty-one.



UNITED STATES DEPARTMENT OF STATE
OFFICE OF FOREIGN MISSIONS

Diplomatic *and* Consular Immunity:

Guidance for Law Enforcement
and Judicial Authorities





This booklet, which provides a guide to the categories of foreign mission personnel and the privileges and immunities to which each is entitled, is a joint publication of the U.S. Department of State's:

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UNITED STATES DEPARTMENT OF STATE
OFFICE OF FOREIGN MISSIONS

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Preface

International law, to which the United States is firmly committed, requires that law enforcement authorities of the United States extend certain privileges and immunities to members of foreign diplomatic missions and consular posts.

Most of these privileges and immunities are not absolute, and law enforcement officers retain their fundamental responsibility to protect and police the orderly conduct of persons in the United States. This booklet provides a guide to the categories of foreign mission personnel and the privileges and immunities to which each is entitled. It explains how to identify (and verify the identity of) such persons and furnishes guidance to assist law enforcement officers in the handling of incidents involving foreign diplomatic and consular personnel.

I.

Introduction

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What Is diplomatic immunity?

Diplomatic immunity is a principle of international law by which certain foreign government officials are not subject to the jurisdiction of local courts and other authorities for both their official and, to a large extent, their personal activities.

The principle of diplomatic immunity is one of the oldest elements of foreign relations. Ancient Greek and Roman governments, for example, accorded special status to envoys, and the basic concept has evolved and endured until the present. As a matter of international law, diplomatic immunity was primarily based on custom and international practice until quite recently. In the period since World War II, a number of international conventions (most noteworthy, the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations) have been concluded. These conventions have formalized the customary rules and made their application more uniform.

Notwithstanding the antiquity of the concept of diplomatic immunity, its purpose is often misunderstood by the citizens of this and other countries. Occasional abuses of diplomatic immunity, which are brought to public attention, have also served to prejudice public attitudes toward this practice. Dealing with the concept of immunity poses particular problems for law enforcement officers who, by virtue of their oath and training, are unaccustomed to granting special privileges or concessions to individuals who break the law. On the other hand, police officers who understand the importance of diplomatic immunity may be inclined to be overly generous in its application if they do not have a full understanding of its parameters. It is the purpose of this booklet to familiarize police

officers with the general rules of diplomatic and consular immunity and to provide them with specific guidance regarding the handling of difficult situations.

The term diplomatic immunity is popularly, and erroneously, understood to refer to special protections afforded all employees of foreign governments who are present in the United States as official representatives of their home governments. Law enforcement officials, however, must have a more sophisticated understanding of the concept. There are over 100,000 representatives of foreign governments, including dependents, in the United States. Many of these persons may be entitled to some degree of immunity under international law. Some of these persons are members of diplomatic missions, others are assigned to consular posts, and still others are employees of international organizations or members of national missions to such international organizations. For each of these categories of persons, particular rules apply and, even within these categories, different levels of immunity may be accorded to different classes of persons. Most of these persons are assigned to Washington, D.C., and New York City, but large numbers are assigned in other major cities around the country. Moreover, nearly all of these persons are free to travel around the country either on official business or for pleasure.

II.

Diplomatic and Consular Immunity: Guidance for Law Enforcement and Judicial Authorities

Legal and Practical Basis of Immunity

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The special privileges and immunities accorded foreign diplomatic and consular representatives assigned to the United States reflect rules developed among the nations of the world regarding the manner in which civilized international relations must be conducted. The underlying concept is that foreign representatives can carry out their duties effectively only if they are accorded a certain degree of insulation from the application of standard law enforcement practices of the host country.

The United States benefits greatly from the concept as it protects U.S. diplomats assigned to countries with judicial systems far different than our own.

The various categories of immunity are explained below and a table is provided on page 40 to summarize elements of paramount concern to law enforcement officials, but all have a common legal foundation. While customary international law continues to refine the concepts of diplomatic and consular immunity, the basic rules are currently embodied in international treaties. These treaties have been formally adopted by the United States and are, therefore, pursuant to the U.S. Constitution, “the supreme law of the land.” The U.S. government is legally bound to ensure that such privileges and immunities are respected by its states and municipalities.

U.S. law regarding diplomatic immunity has its roots in England. In 1708, the British Parliament formally recognized diplomatic immunity and banned the arrest of foreign envoys. In 1790, the United States passed similar legislation that provided absolute immunity for diplomats and their families and servants, as well as for lower ranking diplomatic mission personnel. This 1790 law remained in force until 1978, when the present Diplomatic Relations Act (22 U.S.C. 254) was enacted to replace it.

The principal purpose of the 1978 Act was to bring U.S. law into line with the 1961 Vienna Convention on Diplomatic Relations (which entered into force for the United States in 1972). The 1978 Act imposed a more precise regime

and reduced the degree of immunity enjoyed by many persons at diplomatic missions.

On a practical level, a failure of the authorities of the United States to fully respect the immunities of foreign diplomatic and consular personnel may complicate diplomatic relations between the United States and the other country concerned. It may also lead to harsher treatment of U.S. personnel abroad, since the principle of reciprocity has, from the most ancient times, been integral to diplomatic and consular relations.

It should be emphasized that even at its highest level, diplomatic immunity does not exempt diplomatic officers from the obligation of conforming with national and local laws and regulations. Diplomatic immunity is not intended to serve as a license for persons to flout the law and purposely avoid liability for their actions. *The purpose of these privileges and immunities is not to benefit individuals but to ensure the efficient and effective performance of their official missions on behalf of their governments.* This is a crucial point for law enforcement officers to understand in their dealings with foreign diplomatic and consular personnel. While police officers are obliged, under international customary and treaty law, to recognize the immunity of the envoy, they must not ignore or condone the commission of crimes. As is explained in greater detail below, adherence to police procedures in such cases is often essential in order for the United States to formulate appropriate measures through diplomatic channels to deal with such offenders.

III.

Diplomatic and Consular Immunity: Guidance for Law Enforcement and Judicial Authorities

Categories of Persons Entitled to Privileges and Immunities

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Members of Diplomatic Missions

Diplomatic missions are traditionally the principal communication link between the country that sends them and the host country. Accordingly, the staffs of diplomatic missions (embassies) are afforded the highest level of privileges and immunities in the host country in order that they may effectively perform their important duties.

Under modern international law (reflected in the Vienna Convention on Diplomatic Relations), however, there are different categories of persons within each diplomatic mission, some of whom enjoy greater immunities than others.

The categories of diplomatic mission personnel are defined primarily with reference to the functions performed.¹ “Diplomatic agent” is the term for ambassadors and the other diplomatic officers who generally have the function of dealing directly with host country officials. This category enjoys the highest degree of immunity. The next category is “members of the administrative and technical staff” of the mission, which includes those persons who support the activities of diplomatic agents. This category includes secretaries, certain clerical personnel, office managers, and certain professional security personnel. Note the term “secretary” used here should not be confused with the diplomatic rank of “Secretary” (such as a 1st or 2nd Secretary) which is normally a diplomatic agent. Members of the administrative and technical staff enjoy privileges and immunities that in some respects are less than diplomatic agents. Finally, there are the “members of the service staff” of the diplomatic mission

who perform tasks such as driving, cleaning, and/or grounds maintenance. These persons are afforded significantly less in the way of privileges and immunities. The privileges and immunities of each of these groups is explained in more detail in following sections, and a table is provided to summarize the privileges and immunities of greatest interest to law enforcement personnel.² Also provided is an explanation of important exceptions to the general rules. (A discussion of tax and customs duty exemptions and other privileges not of immediate concern to law enforcement and judicial authorities is not included in this booklet.)

Diplomatic Agents

Diplomatic agents enjoy the highest degree of privileges and immunities. They enjoy complete personal inviolability, which means that they may not be handcuffed (except in extraordinary circumstances), arrested, or detained; and neither their property (including vehicles) nor residences may be entered or searched. Diplomatic agents also enjoy complete immunity from the criminal jurisdiction of the host country’s courts and thus cannot be prosecuted no matter how serious the offense unless their immunity is

¹ The definition of these categories is general since the category into which specific individuals fall may differ depending on reciprocal practices with the countries concerned. Law enforcement personnel, however, do not need to worry about these distinctions in operational situations. Their responsibility is to assure that the appropriate degree of immunity is afforded once the person concerned has been precisely identified.

² The private servants of diplomatic personnel enjoy no jurisdictional immunity or inviolability in the United States.

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waived by the sending state (see the following discussion). While it is not ordinarily of concern to police authorities, they also have immunity from civil suits except in four very limited circumstances: (a) in connection with real property transactions not conducted on behalf of the mission; (b) in connection with any role they may play as executor for or heir to an estate being distributed in the host country; (c) in connection with the performance of professional or commercial activities outside the scope of their official duties; or (d) in respect of counterclaims on the same subject matter when they have been the initiating party in a suit. Finally, they enjoy complete immunity from the obligation to provide evidence as witnesses and cannot be required to testify even, for example, if they have been the victim of a crime.

Family members forming part of the household of diplomatic agents enjoy precisely the same privileges and immunities as do the sponsoring diplomatic agents.³

Members of Administrative and Technical Staff

Members of the administrative and technical staff of a diplomatic mission perform tasks critical to the inner workings of the embassy. Accordingly, they enjoy privileges and

immunities identical to those of diplomatic agents in respect of personal inviolability, immunity from criminal jurisdiction, and immunity from the obligation to provide evidence as witnesses. Their immunity from civil jurisdiction, however, is quite different. Members of the administrative and technical staff enjoy immunity from civil jurisdiction only in connection with the performance of their official duties. This is commonly known as official acts or functional immunity and is explained in more detail in a following section that addresses consular privileges and immunities.

Like those of diplomatic agents, the recognized family members of administrative and technical staff enjoy the same privileges and immunities from the host country's criminal jurisdiction as their sponsors. Since these family members have no official duties to perform, they enjoy no immunity from civil jurisdiction.

Members of Service Staff

Members of the service staff of diplomatic missions perform less critical support tasks for the missions and are accorded much less in the way of privileges and immunities than are those in the other categories. Service staff members have official acts immunity only (see further explanation below) and enjoy

³ *The United States defines members of the household to include: spouses, children until the age of 21 (until the age of 23 if they are full-time students at an institution of higher learning), and such other persons expressly agreed to by the U.S. Department of State in extraordinary circumstances.*

no personal inviolability, no inviolability of property, and no immunity from the obligation to provide evidence as witnesses. The families of service staff members enjoy no privileges or immunities.

Nationals or Permanent Residents of the United States

The general rules set forth previously assume that the staff members of the diplomatic mission are nationals of the sending country or some third country. The United States, as a matter of policy, does not normally accept as diplomatic agents its own nationals, legal permanent residents of the United States, or others who are “permanently resident in” the United States.⁴ The family members of diplomatic agents enjoy no privileges or immunities if they are nationals of the United States. Members of the administrative and technical staff (including their families) and members of the service staff enjoy no privileges and immunities if they are U.S. nationals, legal permanent residents, or foreign nationals “permanently resident in” the United States.

Police officers should not have to deal with this distinction since the U.S. Department of State issues identification cards (see the following discussion) with the nationality principle in mind. However, it is important

for law enforcement officials to understand these principles generally, because they could confront a situation wherein a U.S. citizen spouse of a foreign national diplomatic agent (who lacks the correct identity documents) attempts to establish his or her immunity solely on the basis of proving a relationship with the diplomatic agent.

Special Bilateral Agreements

There are some countries with which the United States has concluded bilateral agreements that grant to all members of the staff of their respective embassies (provided that they are nationals of the sending country) the privileges and immunities to which only diplomatic agents are normally entitled. Identification cards will reflect this status but police officers should be aware of this distinction because they may have to confront situations where a chauffeur or mechanic from the embassy of one of these countries asserts a right to full diplomatic privileges and immunities.

Temporary Duty

Persons sent to the United States on short-term official duty with diplomatic missions ordinarily do not enjoy any privileges and immunities (law enforcement authorities

⁴ A member of a mission, other than a diplomatic agent, “permanently resident in” the United States for purposes of Article 38(2) of the VCDR and Article 71(2) of the VCCR enjoys no privileges and immunities pursuant to the Vienna Conventions.

should nonetheless always seek prompt verification from the U.S. Department of State in particular cases involving such individuals).

Waivers

Always keep in mind that privileges and immunities are extended from one country to another in order to permit their respective representatives to perform their duties effectively; in a sense, it may be said the sending countries “own” these privileges and immunities. Therefore, while the individual enjoying such immunities may not waive them, the sending states can, and do. Police authorities should never address the alleged commission of a crime by a person enjoying full criminal immunity with the belief that there is no possibility that a prosecution could result. The U.S. Department of State requests waivers of immunity in every case where the prosecutor advises that, but for the immunity, charges would be pursued. In serious cases, if a waiver is refused, the offender will be expelled from the United States and the U.S. Department of State will request that a warrant be issued and appropriate entries to the National Crime Information Center (NCIC) database be made by the responsible jurisdiction. The seeking of waiver of immunity is handled entirely via diplomatic channels, but effective and informed police work becomes the basis of the prosecutor’s decision and the foundation for the U.S. Department of State’s waiver requests and any subsequent prosecutions or expulsions.

Members of Consular Posts (Normal and Special Bilateral)

Consular personnel perform a variety of functions of principal interest to their respective sending countries (e.g., issuance of travel documents, attending to the difficulties of their own nationals who are in the host country, and generally promoting the commerce of the sending country). Countries have long recognized the importance of consular functions to their overall relations, but consular personnel generally do not have the principal role of providing communication between the two countries – that function is performed by diplomatic agents at embassies in capitals. The 1963 Vienna Convention on Consular Relations grants a very limited level of privileges and immunities to consular personnel assigned to consulates that are **located outside of capitals**.

There is a common misunderstanding that consular personnel have diplomatic status and are entitled to diplomatic immunity.

Consular Officers

Consular officers are those members of consular posts who are recognized by both the sending and the host country as fully authorized to perform the broad array of formal consular functions. They have only

official acts or functional immunity in respect of both criminal and civil matters, and their personal inviolability is quite limited. Consular officers may be arrested or detained pending trial only if the offense is a felony and that the arrest is made pursuant to a decision by a competent judicial authority (e.g., a warrant issued by an appropriate court).⁵ They can be prosecuted for misdemeanors, but remain at liberty pending trial or other disposition of charges. Property of consular officers is not inviolable. Consular officers are not obliged to provide evidence as witnesses in connection with matters involving their official duties, to produce official documents, or to provide expert witness testimony on the laws of the sending country. Absent a bilateral agreement, the family members of consular officers enjoy no personal inviolability and no jurisdictional immunity of any kind.

As indicated, official acts immunity pertains in numerous different circumstances. No law enforcement officer, U.S. Department of State officer, diplomatic mission, or consulate is authorized to determine whether a given set of circumstances constitutes an official act. This is an issue which may only be resolved by the court with subject matter jurisdiction over the alleged crime. Thus, a person enjoying official acts immunity from criminal jurisdiction may be charged with a crime and may, in this

connection, always be required to appear in court (in person or through counsel). At this point, however, such person may assert as an affirmative defense that the actions complained of arose in connection with the performance of official acts. If, upon examination of the circumstances complained of, the court agrees, then the court is without jurisdiction to proceed and the case must be dismissed. Law enforcement officers are requested to contact the Department of State before arresting a consular officer, or, if not possible, immediately after arrest.

Consular officers who are full-time practitioners of consular functions are referred to as “career” consular officers. These officers are normally nationals of the sending country who are sent to the United States to perform these functions for a specific period and then are transferred to a further assignment. Career consular officers are prohibited by international law from engaging in professional or commercial activities outside the scope of their official consular functions.

Consular Employees

Consular employees perform the administrative and technical support services for the consular post. They have no personal inviolability, only official acts immunity, and enjoy immunity from the obligation to provide evidence as witnesses

⁵ Police officers should note this distinction carefully. In connection with other categories discussed in this booklet, either a person is absolutely protected from arrest or, alternatively, he or she has no immunity from arrest whatsoever. In the case of career consular officers, such arrest may be carried out only if the police officer is operating under the authority of a warrant or similar judicial authorization. Note, however, the discussion below of the public safety prerogatives of police authorities.

only in respect of official acts. Their family members enjoy no personal inviolability or jurisdictional immunities of any kind.

Consular Service Staff

Consular service staff do not enjoy personal inviolability or jurisdictional immunity of any kind, but they do have immunity from the obligation to provide evidence as witnesses in respect of official acts. Their family members enjoy no personal inviolability or jurisdictional immunity of any kind.

Nationals or Permanent Residents of the United States

Consular employees and consular service staff who are U.S. nationals, legal permanent residents, or who are permanently resident in the United States enjoy no personal inviolability or jurisdictional immunity in the United States. (See footnote 4.)

Honorary Consuls

Honorary consuls are American citizens or permanent resident aliens who perform consular services on a part-time basis. Honorary consuls, unlike career consuls, are permitted to carry on another business. These persons have “official acts” immunity only and immunity from the obligation to provide evidence as witnesses only in respect

of official acts. They do not enjoy personal inviolability and may be arrested pending trial if circumstances should otherwise warrant. Family members enjoy no immunity or personal inviolability.

Honorary consuls are issued official identification cards by the U.S. Department of State.

Special Bilateral Agreements

In some cases, a country and the United States have concluded a bilateral consular agreement that grants to members of the staff of their consulates (provided they are not U.S. nationals, legal permanent residents, or permanently resident in the United States) privileges and immunities approximating those afforded diplomatic agents. Law enforcement officers should be aware that these arrangements are not uniform and the U.S. Department of State identification cards issued to these persons reflect the appropriate level of immunity.

Temporary Duty

Persons sent to the United States on short-term official duty with diplomatic missions ordinarily do not enjoy any privileges and immunities (law enforcement authorities should nonetheless always seek prompt verification from the U.S. Department of State in particular cases involving such individuals).

Waivers

As is the case with diplomatic mission personnel, the sending country may always waive the privileges or immunities of members of its consular posts. This is less likely to be an issue for consular personnel, however, since their immunities are so limited.

International Organization Personnel and National Missions to Such Organizations

International organizations, such as the United Nations, are relatively modern entities. The privileges and immunities of the personnel of such organizations and the personnel of national missions to such organizations have a different basis than that of diplomatic and consular representatives. In the case of international organizations, the nations concerned have agreed that the important purposes of such organizations may be accomplished only if a certain measure of privileges and immunities are afforded to their participants. The nations concerned have concluded treaties embodying such grants of privileges and immunities. Some, including the United States, enacted domestic legislation granting specific privileges and immunities to certain categories of persons

not covered by the treaties. In determining the degree of inviolability or immunity, law enforcement officers will be guided primarily by the identity documents that have been issued to such persons. The following, however, provides a general overview of the distribution of privileges and immunities in connection with international organizations.

Personnel of International Organizations

International organizations that have headquarters or other offices in the United States are staffed with administrative and executive employees, as necessary, to carry out their functions. The vast majority of these employees enjoy only official acts immunity as provided for in U.S. domestic legislation (the International Organizations Immunities Act, 22 U.S.C. 2881) and no personal inviolability. In certain cases, however, the most senior executives of such organizations have been accorded privileges and immunities equal to those afforded diplomatic agents. This is the case for the Secretary General of the United Nations and for all Under Secretaries-General and Assistant Secretaries-General of the United Nations, Principal Resident Representatives of the International Monetary Fund and the World Bank, as well as some senior officials of the Organization of American States secretariat.

Personnel of National Missions to International Organizations

The United Nations and the Organization of American States are headquartered in the United States, and most of their member states maintain permanent missions to the headquarters in the United States. The permanent representatives staffing these missions are accredited to the international organization concerned (not to the United States), but their privileges and immunities are nonetheless often defined by reference to the status of diplomatic personnel who are accredited to the United States.

As is the case with diplomatic missions, the assignment of privileges and immunities is differentiated generally on the basis of the functions performed. The most senior representatives in these missions to international organizations have privileges and immunities equivalent to those afforded diplomatic agents. The remainder of the staffs of these missions have only official acts immunity pursuant to the International Organizations Immunities Act and no personal inviolability.

Short-term official visitors from other states to the United Nations or to international conferences convened by the United Nations may enjoy full diplomatic immunity equivalent to that afforded diplomatic agents.

Owing to the temporary nature of their visit, such officials will normally not have the usual official identity documents recognizable in the United States. Law enforcement officials (particularly in New York) should be sensitive to the existence of this situation and always coordinate with the U.S. authorities indicated in the list of Useful Phone Numbers if confronted with an apparent offender appearing to fall into this category.

Designated Employees of TECRO and TECO

Designated Employees of the Taipei Economic and Cultural Representative Office in the United States (TECRO) and of the Taipei Economic and Cultural Offices (TECO)

The Taipei Economic and Cultural Representative Office in the United States (TECRO) and its subsidiary offices, the Taipei Economic and Cultural Offices (TECO), facilitate the commercial, cultural, and other relations between the people of the United States and the people on Taiwan. They operate in the United States pursuant to the Taiwan Relations Act of 1979 and the Agreement on Privileges, Exemptions, and Immunities between the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in the United States

(the Agreement), dated February 4, 2013. The following is a summary of the immunities enjoyed by TECRO and TECO personnel and their eligible dependents under the Agreement.

TECRO Designated Employees

Designated employees of TECRO, located in Washington, D.C., who are accredited by the American Institute in Taiwan (AIT), enjoy full immunity from criminal jurisdiction, but only enjoy immunity from civil jurisdiction with respect to their official acts. They are not subject to any form of arrest or detention. Their residences may not be entered or searched. Their property (including vehicles) may not be entered or searched in matters involving the exercise of criminal jurisdiction or matters related to the exercise of civil jurisdiction with respect to acts performed within their official duties. They may not be obliged to give evidence as a witness in criminal, civil, administrative, or other proceedings.

The immediate family members of a TECRO designated employee, forming part of his or her household, enjoy the same immunity from criminal jurisdiction, arrest, and detention, so long as such individuals are not U.S. nationals or permanent residents.

TECO Head and Deputy Head

The head and deputy head of each TECO, located outside Washington, D.C., who are accredited by AIT, enjoy immunity from civil and criminal jurisdiction only with respect to their official acts. However, they may not be arrested or detained pending trial, except pursuant to a felony warrant. Their residences and property are not inviolable, and they may decline to give evidence as a witness only on matters related to their official duties.

The immediate family members of a TECO head or deputy head enjoy no personal inviolability or jurisdictional immunities of any kind.

TECO Designated Employees

Designated TECO employees, who are accredited by AIT, have no personal inviolability, only official acts immunity, and enjoy immunity from the obligation to provide evidence as a witness only in respect to official acts.

The immediate family members of a TECO designated employee enjoy no personal inviolability or jurisdictional immunities of any kind.

IV.

Diplomatic and Consular Immunity: Guidance for Law Enforcement and Judicial Authorities

Identification of Persons Entitled to Privileges and Immunities in the United States

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It is critical for a law enforcement officer to identify quickly and accurately the status of any person asserting immunity. Numerous documents are associated with foreign diplomats; only one provides an accurate indication of the status of the holder. This section endeavors to explain the array of documents and clarify for police officers which one may be relied upon.

Identification Cards Issued by the U.S. Department Of State

The only authoritative identity document is the identity card issued by the U.S. Department of State, the U.S. Mission to the United Nations in the case of persons accredited to the United Nations, and the American Institute in Taiwan for the employees of TECRO or TECO. There are three types of identification cards (see sample cards beginning on page 30): Diplomatic (blue border for diplomats), Official (green border for embassy employees and United Nations Permanent Mission support staff, and TECRO employees), and Consular (red border for consular personnel and TECO employees).

The identification cards are 3-7/16" x 2-3/16" and contain a photograph of the bearer. The bearer's name, title, mission, city and state, date of birth, identification number, and expiration date appear on the front of the card. The U.S. Department of State seal appears on the back of the card. A brief statement of the bearer's criminal immunity, if any, is printed on the reverse side.

While this form of identification is generally to be relied upon, law enforcement authorities are nonetheless urged to immediately seek verification as indicated below in connection

with any serious incident or in any case where they have reason to doubt the validity of the card. Police officers should be alert to the fact that newly arrived members of diplomatic and consular staffs may not yet have these official identity documents and should contact the U.S. Department of State at numbers listed in the Useful Telephone Numbers on page 42 for verification if confronted with such situations.

Foreign Diplomatic Passports and U.S. Diplomatic Visas: Not Conclusive for Immunity

Foreign diplomatic passports containing U.S. "A" or "G" visas are issued to a broad range of persons, including some individuals who possess varying levels of privileges and immunities but also those who are not accredited to the United States or to international organizations and who therefore enjoy no privileges and immunities in the United States.⁶ This situation is often not fully understood, even by the bearers of such documents, so police officers must be alert to good faith, but erroneous, assertions of immunity by those not entitled to it.

The possession of these documents is an indication that the bearer might be entitled to privileges and immunities in the United States. As mentioned above, temporary duty visitors to the United Nations might have only

⁶ All foreign personnel assigned to official duty at bilateral diplomatic or consular missions in the United States would have A-category visas. G-category visas are issued to foreign personnel assigned to duty at an international organization in the United States or at a foreign country's mission to such organization.

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such documents and might nonetheless be entitled to immunity in the United States. A similar situation could arise in connection with the foreign officer who has just joined a diplomatic mission or consular post and has not yet received the appropriate U.S. identity documents. In cases of doubt, police officers should always coordinate with U.S. authorities on the list of Useful Telephone Numbers.

Tax Exemption Cards: Not Conclusive for Immunity

Under international law, many members of diplomatic missions and consular posts and certain people associated with international organizations would normally be entitled to exemption from sales taxation in the United States. However, significant numbers of these individuals do not enjoy this privilege owing to considerations based on reciprocity. The U.S. Department of State issues tax exemption cards to all those entitled to such exemptions, but tax cards do not give a definitive indication of the degree of immunity of the bearer. (See sample tax exemption cards on page 36.) Accordingly, tax exemption cards should not be relied upon for immunity purposes and should be

considered only as an indication that the bearer may enjoy some degree of immunity.

Automobile Registration, License Plates, and Driver's Licenses: Not Conclusive for Immunity

The U.S. Department of State, through its Office of Foreign Missions' Diplomatic Motor Vehicle Office, has jurisdiction over the registration of vehicles, the issuance of distinctive license plates for those vehicles, and the issuance of operator permits for individuals who enjoy privileges and immunities in the United States. (See sample driver's license and non-driver's ID cards on page 34.) As is the case with tax exemption cards, these federal registration documents and driver's licenses do not definitively reflect the degree of privileges and immunities of the bearer. They should be relied upon only as an indication that the bearer may enjoy some degree of immunity. Vehicle license plates issued by the U.S. Department of State must be understood properly by law enforcement authorities in order to avoid confusion.

THE PLATES ARE CODED TO REFLECT THE DEGREE OF IMMUNITY THAT THE REGISTERED OWNER OF THE VEHICLE ENJOYS:

PLATES WITH A "D" PREFIX OR SUFFIX are issued to diplomatic missions and those members who hold diplomatic rank.

PLATES WITH A "C" PREFIX are issued to consular missions and career consular officers.

PLATES WITH AN "S" PREFIX are issued to the administrative and technical staff at diplomatic missions and consular employees at consular missions.

PLATES WITH AN "A" PREFIX OR SUFFIX are issued to official vehicles of the Secretariats of the United

Nations and the Organization of American States and the personally owned vehicles of those staff members who have diplomatic status.

PLATES WITH AN "E" PREFIX are issued to other foreign missions that are not included in the above categories and their eligible employees.

The U.S. Department of State's distinctive license plates are designed to assist officers in identifying vehicles that belong to foreign missions and those mission members who may enjoy some degree of immunity. However, those plates alone should not be considered verification of the status of the vehicle's operator. For example, police officers should bear in mind that a diplomatic agent who is visiting a consulate may be driving a car with "C" plates. Or a U.S. citizen who is the spouse of a diplomat may be driving a car with "D" plates even though he or she does not have immunity. (Conversely, a diplomatic agent or consular officer may be driving a rented or borrowed car that does not have any type of U.S. Department of State license plate.) These examples serve to emphasize that, whatever kind of license plate is on a vehicle, police officers need to verify with the Department of State a driver's claim of diplomatic or consular status.

A vehicle registration card is issued at the time of initial registration and registration renewal. It contains the following information: name and address of the registered owner, license plate number, vehicle identification number, vehicle make, vehicle model, vehicle color, date of initial registration, and expiration date of the current registration. Decals with the month and year reflecting the expiration date of the current registration period are issued with the card and must be displayed on the vehicle's rear license plate.

The U.S. Department of State's vehicle registration and driver's license status records are available to law enforcement agencies through the National Law Enforcement Telecommunications System (NLETS). Agencies may access these records using the standard NLETS registration and driver query formats. NLETS has assigned state code (destination ORI) "US" to this data base. If an agency requires additional motor vehicle information, it can be obtained telephonically using the numbers on the back of the diplomatic driver's license (also see list of Useful Phone Numbers, page 42) or by sending an administrative message to "DCDOS015V."

Telephonic Information and Verification

In all cases, including those in which the individual provides a U.S. Department of State-issued identification card, the law enforcement officer should verify the immunity status with the U.S. Department of State.

Department of State representatives are available 24-hours daily to assist in emergency situations and when immediate confirmation of a person's status is required. The telephone numbers are printed directly on the back of all Department of State-issued identification cards and driver's licenses for ready use in such instances, and are also provided on page 30 herein for reference.



Terms and Procedures

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Correct Understanding of Immunity

Frequently (and erroneously), immunity is understood to mean pardon, total exoneration, or total release from the responsibility to comply with the law. In actuality, immunity is simply a legal barrier which precludes U.S. courts from exercising jurisdiction over cases against persons who enjoy it and in no way releases such persons from the duty, embodied in international law, to respect the laws and regulations of the United States.

Even those who properly understand the concept of immunity sometimes erroneously believe that it is senseless to waste valuable police time in the investigation and paperwork essential to building a legal case on the assumption that there is no possibility that a conviction will result. However, there are diplomatic remedies available to deal with such persons even when immunity bars prosecution and conviction. As explained below, there are a number of important reasons for police authorities to give careful attention to the documentation of incidents involving persons enjoying privileges and immunities. Such incidents should always be promptly reported to the U.S. Department of State.

Personal Inviolability vs. Public Safety

Personal inviolability is enjoyed to some degree by a majority of foreign diplomatic and consular personnel. This inviolability generally precludes handcuffing, arrest, or detention in any form and forbids U.S. authorities from entering the residences, automobiles, or other property of protected persons. Personal inviolability is, however, qualified by the understanding, well established in international practice, that the host country does not give up its right to protect the safety and welfare of its populace and retains the right, in extraordinary circumstances, to prevent the commission of a crime.

Thus, in circumstances where public safety is in imminent danger or it is apparent that a grave crime may otherwise be committed, police authorities may intervene to the extent necessary to halt such activity. This naturally includes the power of the police to defend themselves from personal harm.

Waiver of Immunity

Diplomatic and consular immunity are not intended to benefit the individual; they are intended to benefit the mission of the foreign government or international organization. Thus an individual does not “own” his or her immunity and it may be waived, in whole or in part, by the mission member’s government. The U.S. Department of State will request a waiver of immunity in every case in which the prosecutor advises that he or she would prosecute but for immunity. The U.S. Department of State’s ability to secure such waiver may depend to a large degree on the strength (and documentation) of the case at issue. Similarly, it is of little avail for the U.S. Department of State to secure a waiver of immunity in a particular case, if the case has not been developed with sufficient care and completeness to permit a successful subsequent prosecution. Proper documentation and reporting by law enforcement authorities play a critical role in both of these respects.

Expulsion Procedure

The criminal immunity that foreign diplomatic and some consular personnel enjoy protects them from the normal jurisdiction of the courts with respect to alleged criminal activity. However, in those instances in which a person with immunity is believed to have committed a serious offense (any felony or crime of violence) and the sending country has not acceded to the U.S. Department of State's request for a waiver of immunity, it is the Department's policy to require the departure of that individual from the United States. Requiring the departure of a person who enjoys immunity is an extreme diplomatic tool, and it is used only after the most careful consideration to ensure that the United States is not perceived as having acted in an arbitrary, capricious, or prejudiced manner. A high standard of police investigation, records, and reporting in diplomatic incident cases is therefore essential to permit the Department to make the appropriate decision.

Official Acts Immunity

As explained in Section III, official acts immunity is not a prima facie bar to the exercise of jurisdiction by U.S. courts. Rather, it is an affirmative defense to be raised before the U.S. court with subject matter jurisdiction over the alleged crime. Only such court, in the full light of all the relevant facts, determines whether the action complained of was an official act. Should the court determine that official acts immunity applies in a certain case, international law precludes the further exercise of jurisdiction by the United States. Judicial determination in a case of this type is very much dependent on the facts surrounding the incident; therefore, a full and complete police report may be critical in permitting the court to make a just decision.

Termination of Immunity

Criminal immunity precludes the exercise of jurisdiction by the courts over an individual whether the incident occurred prior to or during the period in which such immunity exists. This jurisdictional bar is, however, not a perpetual benefit. With the exception of immunity for official acts (which exists indefinitely), criminal immunity expires upon the termination of the diplomatic or consular tour of the individual enjoying immunity. Therefore, obtaining an indictment, information, or arrest warrant could lay the basis for a prosecution at a later date, e.g., if the diplomat returns to the United States at a later date in a private capacity. Moreover, the existence of an outstanding arrest warrant may be entered into the records of the National Crime Information Center (NCIC) and thus serve to bar the subsequent issuance of a U.S. visa permitting such person to enter the United States.

Archives

The archives and official documents of a diplomatic or consular post are inviolable at all times and wherever they may be. The consular archives and documents of a consular post headed by an honorary consular officer are inviolable provided they are kept separate from other papers and documents of a private or commercial nature relating to other activities of an honorary consular officer or persons working with that consular officer.

Handling Incidents

U.S. Department of State Policy

It is the policy of the U.S. Department of State, with respect to alleged criminal violations by persons with immunity from criminal jurisdiction, to encourage law enforcement authorities to pursue investigations vigorously, to prepare cases carefully and completely, and to document properly each incident so that charges may be pursued as far as possible in the U.S. judicial system.

The U.S. Department of State will, in all incidents involving persons with immunity from criminal jurisdiction, request a waiver of that immunity from the sending country if the prosecutor advises that but for such immunity he or she would prosecute or otherwise pursue the criminal charge. If the charge is a felony or any crime of violence, and the sending country does not waive immunity, the U.S. Department of State will require that person to depart the United States and not return unless he or she does so to submit to the jurisdiction of the court with subject matter jurisdiction over the offense. Upon departure, the Department will request that law enforcement issue a warrant for the person's arrest so that the name will be entered in NCIC.

The vast majority of persons entitled to privileges and immunities in the United States are judicious in their actions and keenly aware of the significance attached to their actions as representatives of their sending country. On occasion, however, one of them may become involved in criminal misconduct. The more common violations are traffic (illegal parking, speeding, reckless driving, and DWI), shoplifting, and assault.

Whatever the offense or circumstances of contact, law enforcement officers should keep in mind that such persons are official representatives of foreign governments who are to be accorded the maximum degree of respect possible under the circumstances. It is not an exaggeration to say that police handling of incidents in this country may have a direct effect on the treatment of U.S. diplomatic or consular personnel abroad.

General Procedures

Verifying Suspect Identify and Status

When a law enforcement officer is called to the scene of a criminal incident involving a person who claims diplomatic or consular immunity, the first step should be to verify the status of the suspect. Should the person be unable to produce satisfactory identification and the situation be one that would normally warrant arrest or detention, the officer should inform the individual that he or she will be detained until his or her identity can be confirmed. In all cases, including those in which the suspect provides a U.S. Department of State-issued identification card, the law enforcement officer should verify the suspect's status by contacting the U.S. Department of State or, in the case of the UN community, with the U.S. Mission to the United Nations at the phone numbers listed in the back of this booklet (Useful Telephone Numbers). Once the status is verified, the officer should prepare his or her report, fully describing the details and circumstances of the incident in accordance with normal police procedures.

Personal Inviolability and Questions Regarding Handcuffing

If the suspect enjoys personal inviolability, he or she may not be handcuffed, except when that individual poses an immediate threat to safety, and may not be arrested or detained. Once all pertinent information is obtained, that person must be released. A copy of the incident report should be faxed or emailed as soon as possible to the U.S. Department of State in Washington, D.C.,

or to the U.S. Mission to the UN in New York in cases involving the UN community. Detailed documentation of incidents is essential to enable the U.S. Department of State to carry out its policies.

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Traffic Enforcement

Stopping a mission member or dependent and issuing a traffic citation for a moving violation is permitted and does not constitute arrest or detention. However, the subject may not be compelled to sign the citation. In all cases, officers should follow their departmental guidelines and document the facts of the case fully. A copy of the citation and any other documentation regarding the incident should be forwarded to the U.S. Department of State as soon as possible.

For “must appear” offenses, the Department uses the citation and any report as the basis for requesting an “express waiver of immunity.” Individuals cited for pre-payable offenses are given the option of paying the fine or obtaining a waiver in order to contest the charge.

DUI and Other Serious Cases

In serious cases, e.g., DWI, DUI, personal injury, and accidents, officers on the scene should make telephonic notification to the U.S. Department of State (using the numbers provided on the reverse side of the Department of State driver’s license if available). The

officer should follow his or her department’s guidelines with respect to the conduct of a field sobriety investigation. If appropriate, standardized field sobriety testing should be offered and the results fully documented. The taking of these tests may not be compelled. If the officer judges the individual too impaired to drive safely, the officer should not permit the individual to continue to drive (even in the case of diplomatic agents). Depending on the circumstances, there are several options. The officer may, with the individual’s permission, take the individual to the police station or other location where he or she may recover sufficiently to drive; the officer may summon, or allow the individual to summon, a friend or relative to drive; or the police officer may call a taxi for the individual. If appropriate, the police may choose to provide the individual with transportation.

Driver History, Infractions, and “Point” Program

The U.S. Department of State’s Diplomatic Motor Vehicle Office maintains driver histories on all its licensees and assesses points for moving violations. Drivers who demonstrate a pattern of bad driving habits or who commit an egregious offense such as DWI are subject to having their licenses suspended or revoked as appropriate. This policy can be enforced effectively only if all driving infractions (DWI, DUI, reckless driving, etc.) are reported promptly to the U.S. Department of State. It

is U.S. Department of State policy to assign “points” for driving infractions and to suspend the operator license of foreign mission personnel who abuse the privilege of driving in the United States by repeatedly committing traffic violations and demonstrating unsafe driving practices.

Property Inviolability and Vehicles

The property of a person enjoying full criminal immunity, including his or her vehicle, may not be searched or seized. Such vehicles may not be impounded or “booted” but may be towed the distance necessary to remove them from obstructing traffic or endangering public safety. If a vehicle that is owned by a diplomat is suspected of being stolen or used in the commission of a crime, occupants of the vehicle may be required to present vehicle documentation to permit police verification of the vehicle’s status through standard access to NLETS (use access code US). Should the vehicle prove to have been stolen or to have been used by unauthorized persons in the commission of a crime, the inviolability to which the vehicle would normally be entitled must be considered temporarily suspended, and normal search of the vehicle and, if appropriate, its detention, are permissible.

Vehicles registered to consular officials, including those with full criminal immunity, and consulates are not inviolable and may be towed, impounded, or booted in accordance

with local procedures. The U.S. Department of State should be notified if a consular vehicle has been detained or impounded so that its Office of Foreign Missions can follow up with the proper consular official or mission.

U.S. Department of State License Plates

Federal license plates issued by the U.S. Department of State are not the property of the diplomat or of a diplomatic mission and remain the property of the Department at all times. As such, they must be surrendered to the U.S. Department of State when recalled. Similarly, these license plates may not be transferred from the vehicle to which they were assigned by the U.S. Department of State without the authorization of its Office of Foreign Missions.

Insurance

In cases where the officer at the scene has determined that the vehicle is being operated without insurance and/or has verified with the U.S. Department of State that the vehicle bearing U.S. Department of State license plates is not the vehicle for which those plates were intended, the Department may request that the local law enforcement agency impound the plates and return them to the Department. Such impoundment should only be upon the request of the U.S. Department of State. Subsequent detention of the vehicle must conform to the guidelines above.

Conclusion

It is important that law enforcement and judicial authorities of the United States always treat foreign diplomatic and consular personnel with respect and with due regard for the privileges and immunities to which they are entitled under international law.

Any failure to do so has the potential of casting doubt on the commitment of the United States to carry out its international obligations or of negatively influencing larger foreign policy interests.

As stated above, however, appropriate caution should not become a total “hands off” attitude in connection with criminal law enforcement actions involving diplomats.

Foreign diplomats who violate traffic laws should be cited. Allegations of serious crimes should be fully investigated, promptly reported to the U.S. Department of State, and procedurally developed to the maximum permissible extent.

Local law enforcement authorities should never be inhibited in their efforts to protect the public welfare in extreme situations. The U.S. Department of State should be advised promptly of any serious difficulties arising in connection with diplomatic or consular personnel. Law enforcement and judicial authorities should feel free to contact the U.S. Department of State for general advice on any matter concerning diplomatic or consular personnel.

APPENDICES ►

APPENDIX A

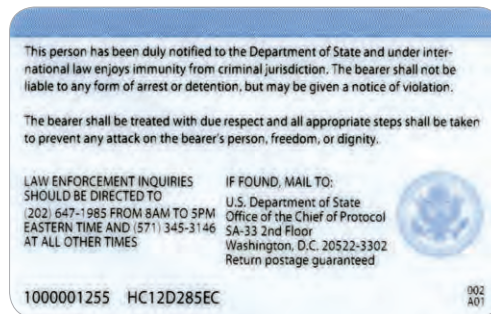
EXAMPLES: IDENTIFYING DOCUMENTS

U.S. DEPARTMENT OF STATE IDENTIFICATION CARDS

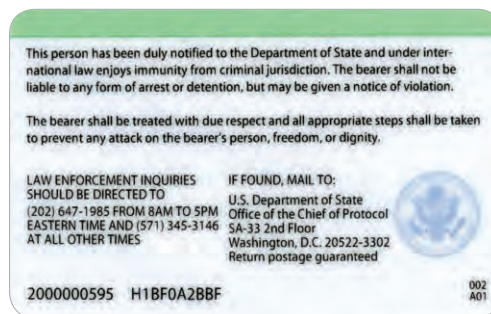
The United States Department of State, the U.S. Mission to the United Nations, and the American Institute in Taiwan issue identification documents to foreign government personnel who are entitled to immunity. Samples of the identification cards are provided here. Because there are different degrees of immunity, law enforcement officers should read carefully identification cards presented to them.

30

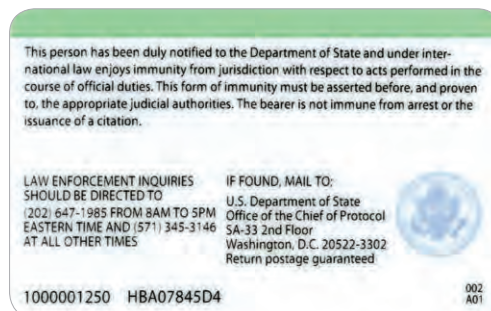
Diplomatic and Embassy Staff Identification Cards



Blue bordered cards are issued to diplomatic officers and their families. They are entitled to full criminal immunity and may not be arrested or detained.

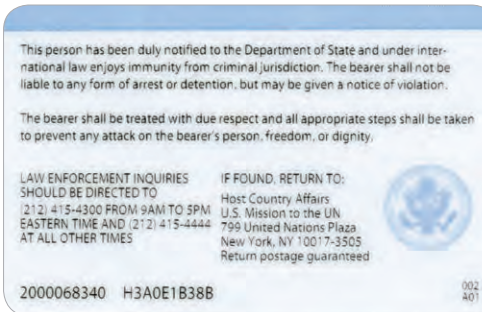


Green bordered cards are issued to embassy administrative and technical staff employees and their families. This card signifies that the bearer is entitled to full criminal immunity and may not be arrested or detained.

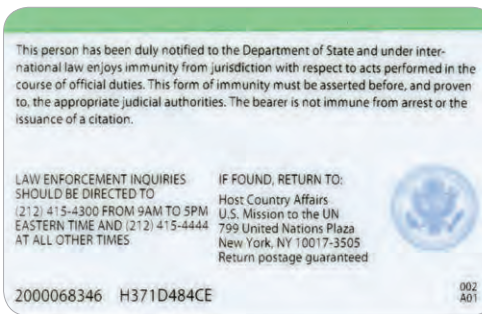


Green bordered cards are issued to embassy service staff employees. This card signifies that the bearer is entitled to immunity for official acts only.

United Nations Identification Cards



Blue bordered cards are issued to UN diplomatic officers and their eligible family members. They are entitled to full criminal immunity and may not be arrested or detained.



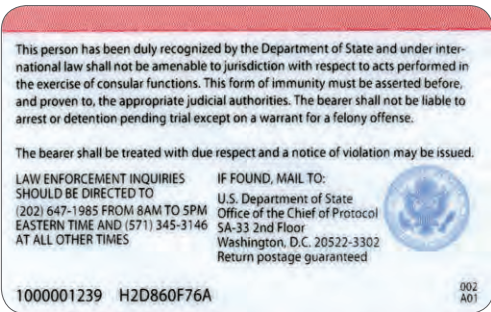
Green bordered cards are issued to support staff at UN permanent missions. They are entitled to immunity for official acts only and are not immune from arrest or the issuance of a citation.

APPENDIX A

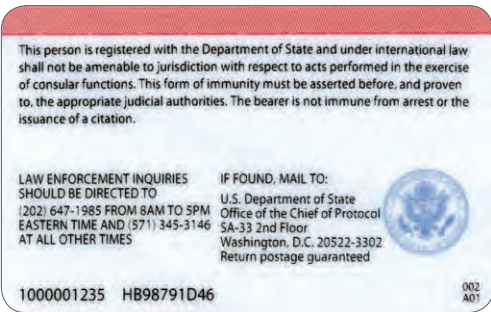
EXAMPLES: IDENTIFYING DOCUMENTS (CONTINUED)

Consular Identification Cards

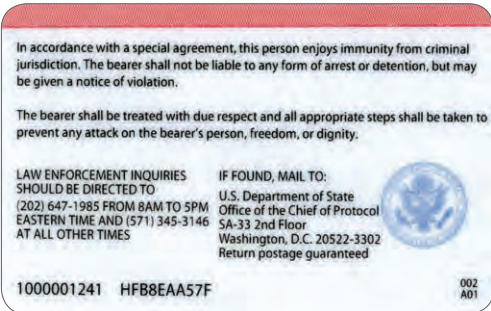
32



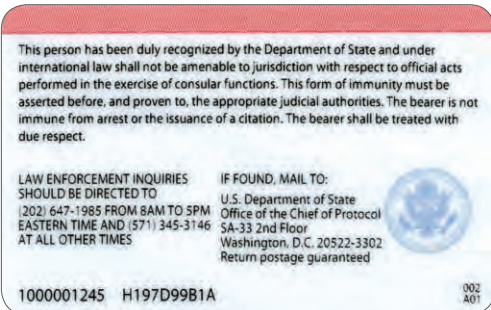
Red bordered cards are issued to career consular officers. This card signifies that the bearer is entitled to immunity for official acts only.



Red bordered cards are issued to career consular employees. This card signifies that the bearer is entitled to immunity for official acts only.

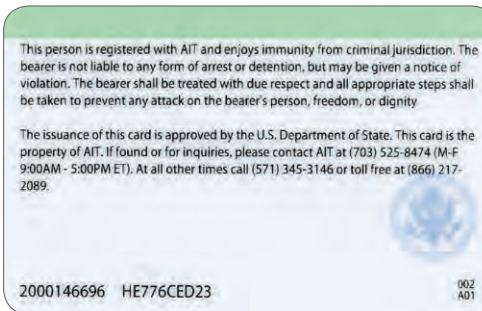


Red bordered cards are issued to consular officers/employees and their families from countries with which the U.S. has special agreements. They are entitled to full criminal immunity and may not be arrested or detained.

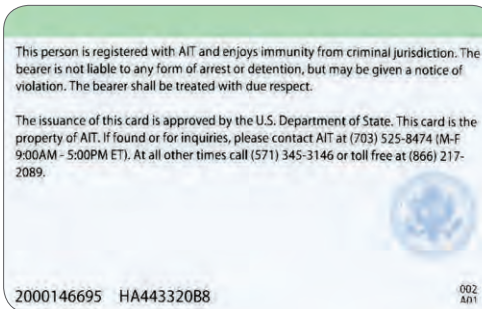


Red bordered cards are issued to honorary consular officers. This card signifies that the bearer is entitled to limited immunity for official acts only.

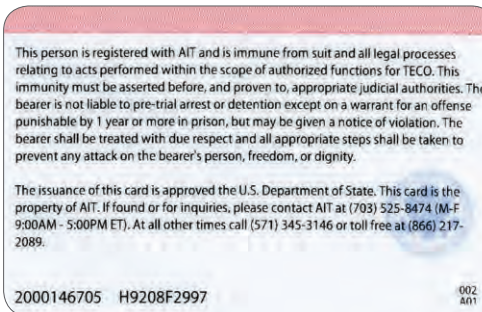
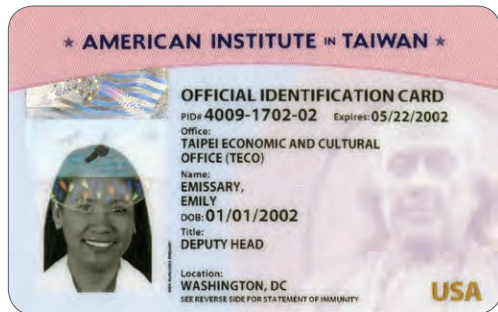
American Institute in Taiwan Identification Cards



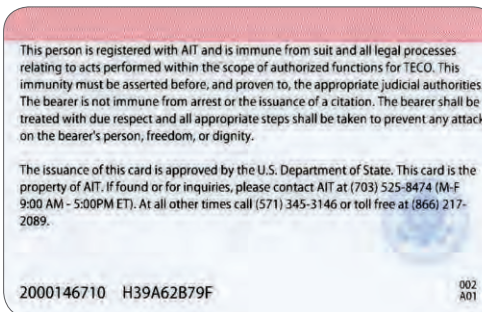
Green bordered cards are issued to employees at the Taipei Economic and Cultural Representative Office (TECRO). The bearer is entitled to full criminal immunity and may not be arrested or detained.



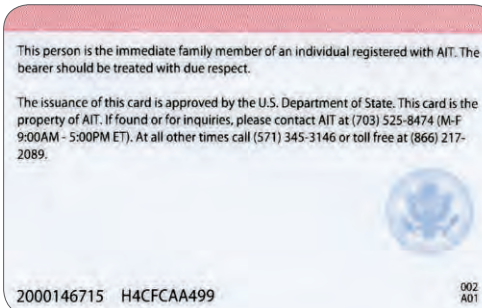
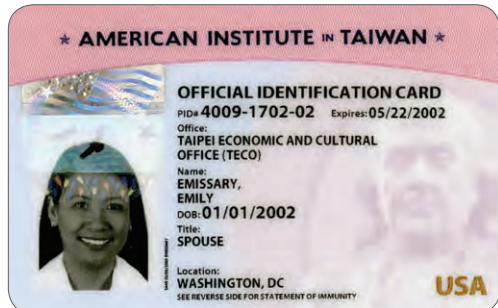
Green bordered cards are issued to the family members of TECRO - designated employees. The bearer is entitled to full criminal immunity and may not be arrested or detained.



Red bordered cards are issued to the head and deputy head of the Taipei Economic and Cultural Offices (TECO). The bearer is entitled to immunity for official acts only but may not be arrested or detained pending trial except on a warrant for a felony offense punishable by at least one year in jail.



Red bordered cards are issued to the employees other than the head or deputy head of a TECO office. The bearer is entitled to immunity for official acts only.



Red bordered cards are issued to the family members of TECO - designated employees. The bearer is not entitled to immunity but should be treated with due respect.

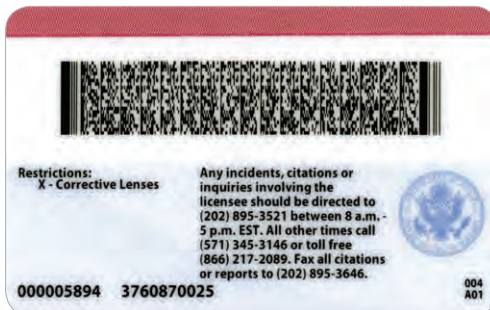
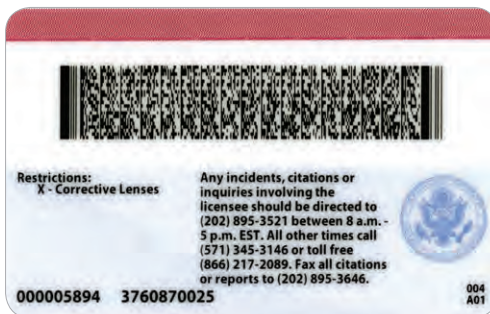
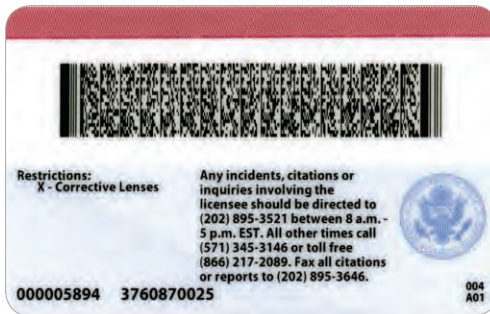
APPENDIX A

EXAMPLES: IDENTIFYING DOCUMENTS (CONTINUED)

U.S. DEPARTMENT OF STATE DRIVER'S LICENSE AND NON-DRIVER'S ID

34

Description: Background colors on the front are powder blue fading to a pink image of Lincoln Memorial interior; lettering is black, with gold OFM logo in bottom right corner. U.S. Department of State driver's licenses are designed with state-of-the-art security features that are intended to defeat any attempts to manufacture counterfeit versions of these cards. These features include, but are not limited to, the use of laser-engraved personalization of data, the inclusion of an optically variable device or Kinegram, and tactile micro-text (small raised text).



★ UNITED STATES DEPARTMENT OF STATE ★


NON-DRIVER ID

PID# 4009-1702-02 Issued: 05/22/2002
DOB: 01/01/2002 Expires: 05/31/2007
Sex: F Height: 6'00"


DIPLOMAT,
AMANDA
3507 INTERNATIONAL PL. NW
WASHINGTON, DC 20008

Amanda Diplomat

SFM

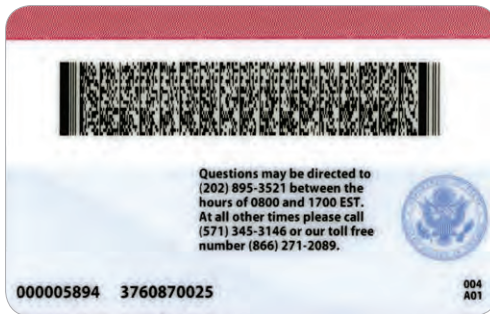


Questions may be directed to
(202) 895-3521 between the
hours of 0800 and 1700 EST.
At all other times please call
(571) 345-3146 or our toll free
number (866) 271-2089.



00005894 3760870025

004
A01



★ UNITED STATES DEPARTMENT OF STATE ★


**NON-DRIVER ID
UNDER 21**

PID# 4009-1702-02 Issued: 05/22/2002
DOB: 01/01/2002 Expires: 05/31/2007
Sex: F Height: 6'00"


DIPLOMAT,
AMANDA
3507 INTERNATIONAL PL. NW
WASHINGTON, DC 20008

Amanda Diplomat

SFM

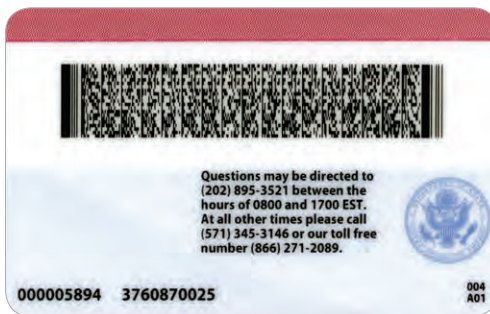


Questions may be directed to
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hours of 0800 and 1700 EST.
At all other times please call
(571) 345-3146 or our toll free
number (866) 271-2089.



00005894 3760870025

004
A01



APPENDIX A

EXAMPLES: IDENTIFYING DOCUMENTS (CONTINUED)

U.S. DEPARTMENT OF STATE TAX EXEMPTION CARD

Diplomatic Tax Exemption Cards are designed with state-of-the-art security features that are intended to defeat any attempts to manufacture counterfeit versions of these cards. These features include, but are not limited to, the use of laser-engraved personalization of data, the inclusion of an optically variable device or Kinegram, and tactile micro-text (small raised text).

36

<p>★ UNITED STATES DEPARTMENT OF STATE ★</p> <p>MISSION TAX EXEMPTION OFFICIAL PURCHASES ONLY</p> <p>Mission: CROATIA Name: DIPLOMAT, AMANDA PID# 4009-1702-01 Expires: 01/01/2008 DOB: 01/01/1983 Sex: F</p> <p>EXEMPT FROM TAXES IMPOSED ON ALL PURCHASES, INCLUDING HOTEL STAYS & RESTAURANT MEALS</p> 	<p>This card authorizes the mission to receive nationwide exemption from:</p> <p>EXEMPT FROM TAXES IMPOSED ON ALL PURCHASES, INCLUDING HOTEL STAYS & RESTAURANT MEALS</p> <p>Not valid for vehicle purchases. Exemptions may only be authorized if payment is made with an official check or credit card bearing the name of the Mission. The validity of this card/privilege may be confirmed at https://ofmapps.state.gov/tecv/. For questions, please contact (202) 895-3500 ext. 2 (M-F 8:00AM – 5:00PM ET) or visit www.state.gov/ofm/tax. This card is the property of the U.S. Department of State.</p> <p>00000584 3760870025</p>
<p>★ UNITED STATES DEPARTMENT OF STATE ★</p> <p>MISSION TAX EXEMPTION OFFICIAL PURCHASES ONLY</p> <p>Mission: CROATIA Name: DIPLOMAT, AMANDA PID# 4009-1702-01 Expires: 01/01/2008 DOB: 01/01/1983 Sex: F</p> <p>EXEMPT FROM SALES TAX ON PURCHASES OVER \$250 INCLUDING TAXES ON HOTEL ROOMS</p> 	<p>This card authorizes the mission to receive nationwide exemption from:</p> <p>EXEMPT FROM SALES TAX ON PURCHASES OVER \$250 INCLUDING TAXES ON HOTEL ROOMS</p> <p>Not valid for vehicle purchases. Exemptions may only be authorized if payment is made with an official check or credit card bearing the name of the Mission. The validity of this card/privilege may be confirmed at https://ofmapps.state.gov/tecv/. For questions, please contact (202) 895-3500 ext. 2 (M-F 8:00AM – 5:00PM ET) or visit www.state.gov/ofm/tax. This card is the property of the U.S. Department of State.</p> <p>00000584 3760870025</p>
<p>★ UNITED STATES DEPARTMENT OF STATE ★</p> <p>PERSONAL TAX EXEMPTION</p> <p>Mission: CROATIA Name: DIPLOMAT, AMANDA PID# 4009-1702-01 Expires: 01/01/2008 DOB: 01/01/1983 Sex: F</p> <p>EXEMPT FROM TAXES IMPOSED ON ALL PURCHASES, INCLUDING HOTEL STAYS & RESTAURANT MEALS</p> 	<p>NOT TRANSFERABLE</p> <p>This card authorizes the bearer, whose photo appears on reverse, to receive nationwide exemption from:</p> <p>EXEMPT FROM TAXES IMPOSED ON ALL PURCHASES, INCLUDING HOTEL STAYS & RESTAURANT MEALS</p> <p>Not valid for vehicle purchases. The validity of this card/privilege may be confirmed at https://ofmapps.state.gov/tecv/. For questions, please contact (202) 895-3500 ext. 2 (M-F 8:00AM – 5:00PM ET) or visit www.state.gov/ofm/tax. This card is the property of the U.S. Department of State.</p> <p>00000584 3760870025</p>
<p>★ UNITED STATES DEPARTMENT OF STATE ★</p> <p>PERSONAL TAX EXEMPTION</p> <p>Mission: CROATIA Name: DIPLOMAT, AMANDA PID# 4009-1702-01 Expires: 01/01/2008 DOB: 01/01/1983 Sex: F</p> <p>EXEMPT FROM TAXES IMPOSED ON PURCHASES OVER \$100, NOT VALID AT HOTELS & RESTAURANTS</p> 	<p>NOT TRANSFERABLE</p> <p>This card authorizes the bearer, whose photo appears on reverse, to receive nationwide exemption from:</p> <p>EXEMPT FROM TAXES IMPOSED ON PURCHASES OVER \$100, NOT VALID AT HOTELS & RESTAURANTS</p> <p>Not valid for vehicle purchases. The validity of this card/privilege may be confirmed at https://ofmapps.state.gov/tecv/. For questions, please contact (202) 895-3500 ext. 2 (M-F 8:00AM – 5:00PM ET) or visit www.state.gov/ofm/tax. This card is the property of the U.S. Department of State.</p> <p>00000584 3760870025</p>

AMERICAN INSTITUTE IN TAIWAN TAX EXEMPTION CARD

American Institute in Taiwan Tax Exemption Cards are designed with the same state-of-the-art security features as the Diplomatic Tax Exemption Cards, with gold USA logo in the bottom right corner.



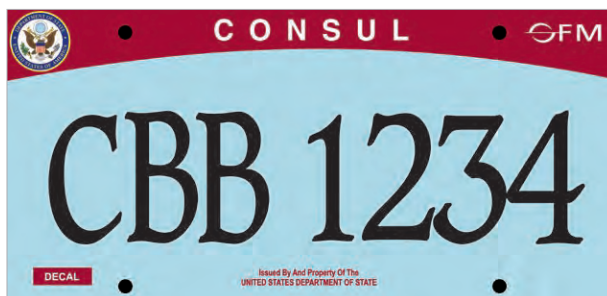
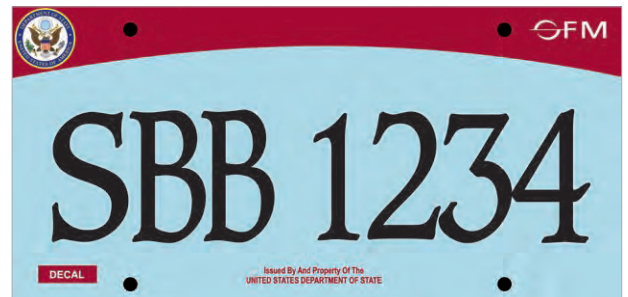
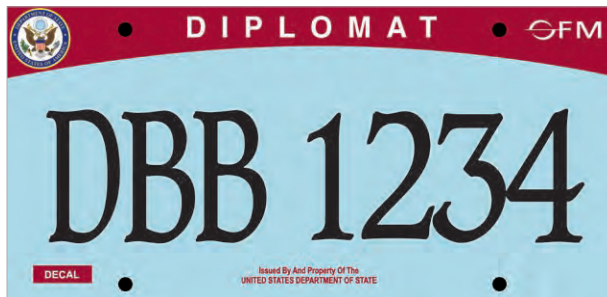
APPENDIX B

SAMPLES OF U.S. DEPARTMENT OF STATE-ISSUED DIPLOMATIC AND UNITED NATIONS MISSIONS LICENSE PLATES

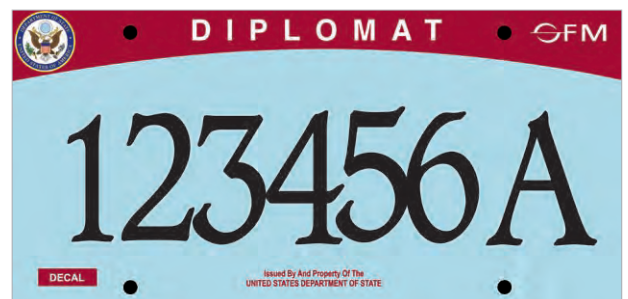
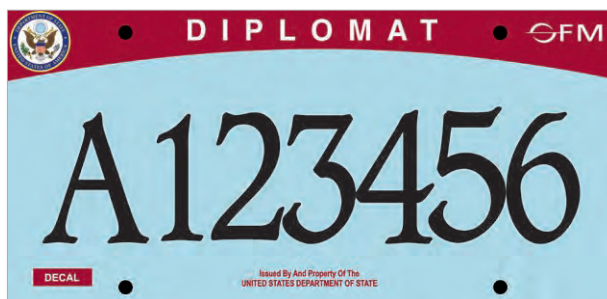
CATEGORIES OF OFM LICENSE PLATES

Diplomatic and Consular Missions

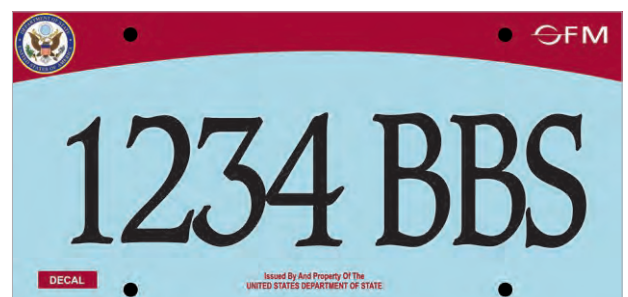
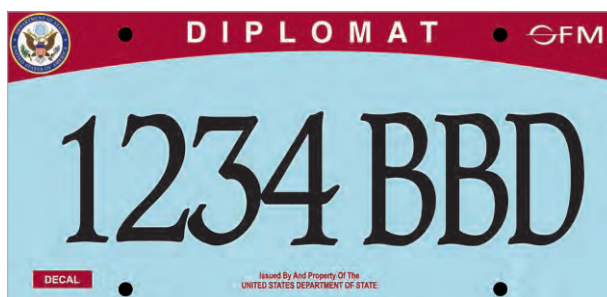
38



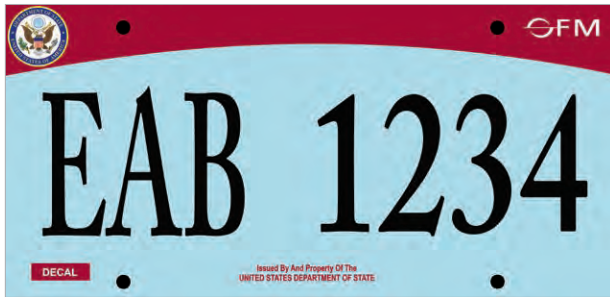
Secretariats to International Organizations



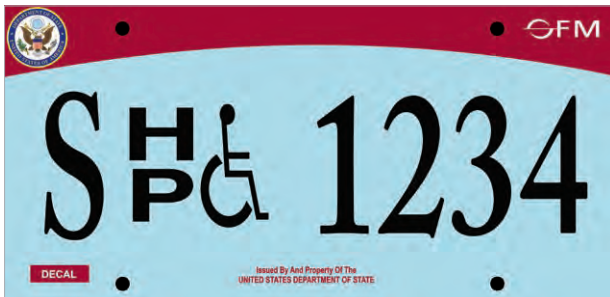
United Nations



Other Foreign Missions



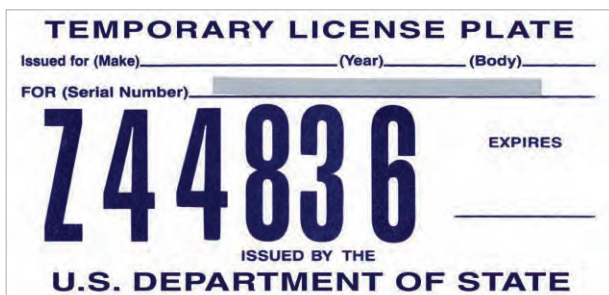
Handicapped



Trailer



Temporary



APPENDIX C



DIPLOMATIC AND CONSULAR PRIVILEGES AND IMMUNITIES FROM CRIMINAL JURISDICTION

LAW ENFORCEMENT ASPECTS SUMMARY

40

	Category	Arrested or Detained?	Enter Residence Subject to Ordinary Procedures?
International Organizations	International Organization Staff ³	Yes	Yes
	Diplomatic-Level Staff of Missions to International Organizations	No ¹	No
	Support Staff of Missions to International Organizations	Yes	Yes
Diplomatic	Diplomatic Agent	No ¹	No
	Member of Administrative and Technical Staff	No ¹	No
	Service Staff ²	Yes	Yes
Consular	Career Consular Officers ²	No, except in the case of a felony and pursuant to a warrant.	Yes ⁴
	Honorary Consular Officers	Yes	Yes
	Consular Employees ²	Yes	Yes
TECRO/TECO	TECRO Designated Employee	No	No
	TECO Head/Deputy Head	No, except in the case of a felony and pursuant to a warrant.	Yes
	TECO Designated Employee	Yes	Yes

¹ Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or the prevention of serious criminal acts.

² This table presents general rules. The employees of certain foreign countries may enjoy **higher** levels of privileges and immunities on the basis of special bilateral agreements.

³ A small number of senior officers are entitled to be treated identically to "diplomatic agents."

⁴ Note that consular residences are sometimes located within the official consular premises. In such cases, **only** the official office space is protected from police entry.

Issued Traffic Citation?	Subpoenaed as Witness?	Prosecuted?	Recognized Family Member?
Yes	No—for official acts. Yes, in all other cases.	Official acts immunity. Consult Dept. of State.	No immunity or inviolability.
Yes	No	No	Same as sponsor (full immunity and inviolability).
Yes	No—for official acts. Yes, in all other cases.	Official acts immunity. Consult Dept. of State.	No immunity or inviolability.
Yes	No	No	Same as sponsor (full immunity and inviolability).
Yes	No	No	Same as sponsor (full immunity and inviolability).
Yes	Yes	Official acts immunity. Consult Dept. of State.	No immunity or inviolability.
Yes	No—for official acts. Testimony may not be compelled in any case.	Official acts immunity. Consult Dept. of State.	No immunity or inviolability.
Yes	No—for official acts. Yes, in all other cases.	Official acts immunity. Consult Dept. of State.	No immunity or inviolability.
Yes	No—for official acts. Yes, in all other cases.	Official acts immunity. Consult Dept. of State.	No immunity or inviolability.
Yes	No	No	Immunity from criminal jurisdiction, arrest, and detention.
Yes	No—for official acts. Yes, in all other cases.	Official acts immunity. Consult AIT.	No immunity or inviolability.
Yes	No—for official acts. Yes, in all other cases.	Official acts immunity. Consult AIT.	No immunity or inviolability.

Diplomatic Security Command Center

Direct questions or inquiries to the Diplomatic Security Command Center.

Call: 571-345-3146
Toll free: 1-866-217-2089

Available 24 hours daily

Consular Notification

Assistance with consular notification procedures following the arrest or detention of a foreign national.

Business hours: 202-485-7703
After-hours: 202-647-1512
Email: consnot@state.gov

Immunity Issues

Contact the Office of Protocol: Diplomatic Affairs

Business hours: 202-647-1727
After-hours: 571-345-3146
Toll-free: 1-866-217-2089
Fax Number: 202-647-4080

APPENDIX D

USEFUL TELEPHONE NUMBERS

ALL FOREIGN MISSIONS AND THEIR PERSONNEL (Other than United Nations or TECRO/TECO)

During Business Hours (Monday-Friday, 9am-5pm EST)

Verify immunity status	202-647-1985 202-647-1727
Diplomatic motor vehicle registration and driver's licensing inquiries	202-895-3521 ofmdmvinfo@state.gov
Report traffic incidents/accidents/citations	202-895-3521 ofmdmvenforcement@state.gov
All citations and reports Traffic Office of Foreign Missions	202-895-3646 (fax) ofmdmvenforcement@state.gov
Criminal/misdemeanor (non-traffic) Office of the Chief of Protocol DSS-Protective Liaison	202-647-1198 (fax) 202-895-3613 (fax)

After Hours

Diplomatic Security Command Center	571-345-3146 866-217-2089
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MISSIONS AND SECRETARIAT TO THE UNITED NATIONS AND THEIR PERSONNEL

During Business Hours (Monday-Friday, 9am-5pm EST)

Verify immunity status and law enforcement inquiries	212-415-4168 212-415-4407 212-415-4300
Diplomatic motor vehicle registration and driver's licensing inquiries	202-895-3521 ofmdmvinfo@state.gov

After Hours

USUN-Communications Section	212-415-4444
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TECRO/TECO AND THEIR PERSONNEL

During Business Hours (Monday-Friday, 9am-5pm EST)

Verify immunity status and law enforcement inquiries	703-525-8474
Diplomatic motor vehicle registration and driver's licensing inquiries	202-895-3521 ofmdmvinfo@state.gov

After Hours

Diplomatic Security Command Center	571-415-3146 866-217-2089
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For information on the obligation to notify consular officers of the arrest and detention of a foreign national in the United States, please refer to the following Department of State Publication:

Consular Notification and Access:

Instructions for Federal, State, and Local Law Enforcement and Other Officials Regarding Foreign Nationals in the United States and the Rights of Consular Officials to Assist Them

http://travel.state.gov/content/dam/travel/CNAtrainingresources/CNAManual_Feb2014.pdf

Office of Policy Coordination and Public Affairs (CA/P)
Bureau of Consular Affairs
U.S. Department of State
2100 C St. NW, Room 4800
Washington, D.C. 20520
Telephone: (202) 485-7703
Fax: (202) 485-6170
Email: consnot@state.gov
Website: www.travel.state.gov/consularnotification
Twitter: @ConsularNotify



United States Department of State
Office of Foreign Missions
Washington, D.C. 20522-2008



Revised June 2015
www.state.gov/ofm

Article V

RESIDENT REPRESENTATIVES TO THE UNITED NATIONS

Section 15

(1) Every person designated by a Member as the principal resident representative to the United Nations of such Member or as a resident representative with the rank of ambassador or minister plenipotentiary,

(2) such resident members of their staffs as may be agreed upon between the Secretary-General, the Government of the United States and the Government of the Member concerned;

(3) every person designated by a member of a specialized agency, as defined in Article 57, paragraph 2 of the Charter, as its principal permanent representative, with the rank of ambassador or minister plenipotentiary at the headquarters of such agency in the United States, and

(4) such other principal resident representatives of members of a specialized agency and such resident members of the staffs of representatives of a specialized agency as may be agreed upon between the principal executive officer of the specialized agency, the Government of the United States and the Government of the Member concerned,

shall, whether residing inside or outside the headquarters district, be entitled in the territory of the United States to the same privileges and immunities, subject to corresponding conditions and obligations, as it accords to diplomatic envoys accredited to it. In the case of Members whose governments are not recognized by the United States, such privileges and immunities need be extended to such representatives, or persons on the staffs of such representatives, only within the headquarters district, at their residences and offices outside the district, in transit between the district and such residences and offices, and in transit on official business to or from foreign countries.

Article VI

POLICE PROTECTION OF THE HEADQUARTERS DISTRICT

Section 16

(a) The appropriate American authorities shall exercise due diligence to ensure that the tranquility of the headquarters district is not disturbed by the unauthorized entry of groups of persons from outside or by disturbances in its



UNITED STATES MISSION TO THE UNITED NATIONS

799 UNITED NATIONS PLAZA
NEW YORK, N.Y. 10017-3505

December 30, 2015

Re: Francisco (“Francis”) Lorenzo DOB: [REDACTED] 1967

To whom it may concern:

This is to certify that I, James B. Donovan, Minister-Counselor for Host Country Affairs at the United States Mission to the United Nations, am responsible for overseeing the official records of the United States Mission to the United Nations with regard to the registration of foreign government officials assigned to the permanent missions of foreign governments to the United Nations. According to information provided officially to the United States Mission to the United Nations by the United Nations Office of Protocol, Mr. Francisco Lorenzo was notified as an Ambassador at the Permanent Mission of the Dominican Republic to the United Nations on October 11, 2004 and was terminated from that position on October 8, 2015.

As a United States citizen, Ambassador Lorenzo did not satisfy established Department of State criteria required to be considered for diplomatic privileges and immunities. To enjoy diplomatic privileges and immunities, Ambassador Lorenzo would have to show, *inter alia*, that he is not a United States citizen and that he possessed an appropriate non-immigrant status in the United States. It is the policy and practice of the United States, that United States citizens working in a diplomatic capacity for a foreign government’s permanent mission at the UN enjoy only official acts immunity, not diplomatic immunity. Accordingly, Mr. Lorenzo had only official acts immunity for the time period given.

The Permanent Missions of foreign governments to the United Nations are periodically apprised of the criteria required by the Department of State for diplomatic immunity by means of Diplomatic Notes circulated by the United States Mission to the Permanent Missions, most recently dated 2010, 2005, 1995, and 1992. Copies of those notes are attached to this statement.

On October 12, 2015, the United Nations Office of Protocol provided the United States Mission with an official Notification of Change indicating that, upon notification from the Permanent Representative of the Dominican Republic to the United Nations, dated October 8, 2015, Ambassador Francisco Lorenzo was suspended as a member of the Permanent Mission of the Dominican Republic.

-2-

The United States Mission also provided a note to the Permanent Mission of the Dominican Republic on November 19, 2015, confirming that Mr. Lorenzo was terminated from his position at the Permanent Mission as of October 8, 2015.


James B. Donovan
Minister-Counselor for Host Country Affairs
United States Mission to the United Nations

**UNITED STATES MISSION TO THE UNITED NATIONS
NEW YORK**

January 27, 2010

HC-03-2010

The United States Mission to the United Nations presents its compliments to the Permanent Missions to the United Nations and has the honor to reiterate the criteria for inclusion on the list of Members of the Permanent Missions Entitled to Diplomatic Privileges and Immunities in the United States under the provisions of Article V, Section 15 of the Headquarters Agreement between the United States and the United Nations.

The criteria area as follows: the diplomatic envoy must:

- (1) perform, on behalf of the Member State, diplomatic duties directly related to the work of the United Nations on a full-time basis, which the Department of State describes as at least thirty-five hours each week at the Mission, and shall not practice for profit any professional or commercial activity in the United States.
Personnel sent from capitals and seconded to, and/or working at the United Nations or the Funds, Programs and Agencies cannot be accepted as members of the Permanent Missions, and must not be so registered.
- (2) possess a valid diplomatic passport of the Member State;
- (3) possess a recognized diplomatic title: Ambassador Extraordinary and Plenipotentiary, Ambassador, Minister Plenipotentiary, Minister, Minister Counselor, Counselor, First Secretary, Second Secretary, Third Secretary, Attache, or Assistant Attache;

DIPLOMATIC NOTE

- (4) be a national of the Member State;
- (5) possess an appropriate non-immigrant status in the United States;
- (6) be at least 21 years of age;
- (7) reside in the New York metropolitan area on a full-time basis.

Each of the aforementioned criteria must be met.

Documents issued to diplomatic envoys by the United States Mission will use only the aforementioned diplomatic titles. The diplomatic titles acceptable to the United States are without prejudice to any functional or other titles conferred upon those envoys by the Member States.

The United States Mission to the United Nations avails itself of this opportunity to renew to the Permanent Missions to the United Nations the assurances of its highest consideration.

A handwritten signature in black ink, consisting of several stylized, overlapping loops and lines, positioned in the lower right quadrant of the page.

UNITED STATES MISSION TO THE UNITED NATIONS
NEW YORK

January 19, 2005

HC-06-05

The United States Mission to the United Nations presents its compliments to the Permanent Missions to the United Nations and has the honor to reiterate the criteria for inclusion on the list of Members of the Missions Entitled to Diplomatic Privileges and Immunities in the United States under the provisions of Article V, Section 15 of the Headquarters Agreement between the United States and the United Nations.

The criteria are as follows: The diplomatic envoy must:

- (1) perform, on behalf of the member state, diplomatic duties directly related to the work of the United Nations on a full time basis. Working thirty-five hours or more per week at the Permanent Mission on United Nations business and having no other employment in the United States should be viewed as a reasonable guideline in this respect;
- (2) possess a valid diplomatic passport of the member state if diplomatic passports are issued by that state. In the absence of a diplomatic passport, the sponsoring Mission should explain its absence by diplomatic note.

DIPLOMATIC NOTE

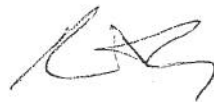
-2-

- (3) possess a recognized diplomatic title: Ambassador Extraordinary and Plenipotentiary, Ambassador, Minister Plenipotentiary, Minister, Minister Counselor, Counselor, First Secretary, Second Secretary, Third Secretary, Attaché or Assistant Attaché;
- (4) be a national of the member state;
- (5) possess an appropriate non-immigrant status in the United States;
- (6) be at least 21 years of age, and
- (7) reside in the New York metropolitan area on a full time basis.

Each of the aforementioned criteria must be met.

Documents issued to diplomatic envoys by the United States Mission will use only the aforementioned diplomatic titles. The diplomatic titles acceptable to the United States are without prejudice to any functional or other titles conferred upon those envoys by the member state.

The United States Mission to the United Nations avails itself of this opportunity to renew to the Permanent Missions to the United Nations the assurances of its highest consideration.

A handwritten signature in black ink, appearing to be the initials 'RAG' or similar, located at the bottom right of the page.

UNITED STATES MISSION
TO THE UNITED NATIONS

March 27, 1995

HC-13-95

The United States Mission to the United Nations presents its compliments to the Permanent Missions to the United Nations and has the honour to reiterate the criteria for inclusion on the list of members of Missions to the United Nations entitled to diplomatic privileges and immunities in the United States under the provisions of the Headquarters Agreement between the United States and the United Nations (Public Law 80-357 of August 4, 1947).

The criteria are as follows. The diplomatic officer must:

- (1) perform, on behalf of the sending state, diplomatic duties directly related to the business of the United Nations on a full-time basis;
- (2) possess a valid diplomatic passport if diplomatic passports are issued by the sending state, or the Mission should by diplomatic note explain its absence in particular cases;
- (3) possess a recognized diplomatic title;
- (4) possess appropriate non-immigrant status in the United States;
- (5) be over 21 years of age; and
- (6) reside in the New York metropolitan area.

Each of the above criteria must be met.

- 2 -

Recognized diplomatic titles are the following:

- (1) Ambassador Extraordinary and Plenipotentiary;
- (2) Ambassador;
- (3) Minister;
- (4) Minister Counselor;
- (5) Counselor;
- (6) First Secretary;
- (7) Second Secretary;
- (8) Third Secretary;
- (9) Attache;
- (10) Assistant Attache.

Henceforth, the documents issued to diplomats by the United States Mission will use only the above listed diplomatic titles. The diplomatic titles acceptable to the United States are without prejudice to functional or other titles conferred on those envoys by the sending state.

The United States Mission to the United Nations avails itself of this opportunity to renew to the Permanent Missions to the United Nations the assurances of its highest consideration.

October 29, 1992

The United States Mission to the United Nations presents its compliments to the Permanent Missions to the United Nations and has the honor to remind Missions of the applicable criteria for entitlement to diplomatic privileges and immunities for diplomatic officers of Permanent Missions to the United Nations.

The criteria are as follows: each diplomatic officer must (1) perform diplomatic duties for the Mission on a full-time basis; (2) possess a valid diplomatic passport if diplomatic passports are issued by his or her government, or, the Mission should by diplomatic note explain its absence in particular cases; (3) possess a recognized diplomatic title; (4) possess appropriate United States non-immigrant status; (5) be over 21 years of age; and (6) reside in the New York metropolitan area. Each of the above criteria must be met.

The attention of the United States Mission has been drawn to the fact that some individuals have been accredited to the United Nations as diplomatic officers, but are not in fact performing a diplomatic function. This practice is unacceptable. The United States Mission wishes to stress

-2-

the importance placed on the performance of traditional and accepted diplomatic functions by those individuals whose names have been accepted for inclusion on the list of officers entitled to diplomatic privileges and immunities.

The United States Mission takes this opportunity to remind Missions to the United Nations that persons performing commercial functions or other governmental duties which are not United Nations related or who are attending schools as full-time day students are not eligible for inclusion on the list of individuals entitled to diplomatic privileges and immunities.

Missions are requested to notify the Department of State through the United Nations Chief of Protocol of the names of persons who may have previously been granted diplomatic privileges and immunities as members of Permanent Missions but who do not now meet all criteria listed above.

Missions are also reminded that the same general criteria apply to non-immigrant staff members. They must (1) possess valid non-immigrant status; (2) perform full-time duties for the Mission; (3) reside in the New York metropolitan area; and (4) be notified to the Department of State through the United Nations Chief of Protocol.

The United States Mission to the United Nations avails itself of this opportunity to renew to the Permanent Missions to the United Nations the assurances of its highest consideration.

ORIGINAL (To be retained by Clerk of Court)

Petition No. 989386

U. S. District: Southern District: New York, N. Y.

A.R. No. [Redacted]

To the Honorable _____ Court for the _____ at _____

316

**This petition for naturalization, hereby made and filed under section
Immigration and Nationality Act, respectfully shows:**

(1) My full, true, and correct name is FRANCIS LORENZO
(Full, true name, without abbreviations)

(2) My present place of residence is _____ BRONX
(Apt. No.) (Number and Street) (City or Town)

BRONX NEW YORK 10468
(Country) (State) (ZIP Code)

(3) I was born on 67 in DOMINICAN REPUBLIC

(4) I request that my name be changed to NONE

(5) I was lawfully admitted to the United States for permanent residence and have not abandoned such residence. 1/26/85

(6) [If petition filed under Section 316(a).] I have resided continuously in the United States for at least five years and continuously in the States in which this petition is made for at least six months, immediately preceding the date of this petition and after my lawful admission for permanent residence, and I have been physically present in the United States for at least one-half of such five year period

(7) [If petition filed under Section 319(a).] I have resided continuously in the United States in marital union with my present spouse for at least three years immediately preceding the date of this petition, and after my lawful admission for permanent residence, during all of which period my said spouse has been a United States citizen, and have been physically present in the United States at least one-half of such three-year period. I have resided continuously in the States in which this petition is made at least six months immediately preceding the date of this petition

(8) [If petition filed under Section 319(b).] My present spouse is a citizen of the United States, in the employment of the Government of the United States, or of an American institution of research recognized as such by the Attorney General; or an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States, or subsidiary thereof, or of a public international organization in which the United States participates by treaty or statute, or is authorized to perform the ministerial or priestly functions of a religious denomination having a bona fide organization within the United States, or is engaged solely as a missionary by a religious denomination or by an interdenominational mission organization having a bona fide organization within the United States, and such spouse is regularly stationed abroad in such employment. I intend in good faith upon naturalization to live abroad with my spouse and to resume my residence within the United States immediately upon termination of such employment abroad.

(9) [If petition filed under Section 328.] I have served honorably in the Armed Forces of the United States for a period or periods aggregating three years. I have never been separated from the Armed Forces of the United States under other than honorable conditions. If not still in service, my service terminated within six months of the filing of my petition.

(10) [If petition filed under Section 329.] While an alien or noncitizen national of the United States, I served honorably in an active-duty status in the military, air, or naval forces of the United States during either World War I or during a period beginning September 1, 1939, and ending December 31, 1946, or during a period beginning June 25, 1950, and ending July 1, 1955, or during a period beginning February 28, 1961, and ending October 15, 1978, or I was discharged after five years of service under the Act of June 30, 1950 [P.L. 597, 81st Congress]. If separated from such service, I was separated under honorable conditions. At the time of enlistment, reenlistment, or induction I was in the United States, the Canal Zone, American Samoa, or Swains Island. If not in any of these places, I was lawfully admitted to the United States for permanent residence subsequent to enlistment or induction. I was never separated from such service on account of alienage. I was not a conscientious objector who performed no military, air, or naval duty whatever or refused to wear the uniform. I have not previously been naturalized on the basis of the same period of service.

(11) I am not and have not been, within the meaning of the Immigration and Nationality Act, for a period of at least 10 years immediately preceding the date of this petition, a member of or affiliated with any organization proscribed by such Act or any section, subsidiary, branch, affiliate or subdivision thereof, nor have I during such period believed in, advocated, engaged in, or performed any of the acts or activities prohibited by such Act.

(12) I am, and have been during all the periods required by law, a person of good moral character, attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the United States.

(13) It is my intention in good faith to become a citizen of the United States and take without qualification the oath of renunciation and allegiance prescribed by the Immigration and Nationality Act, and to reside permanently in the United States. I am willing, when required by law, to bear arms on behalf of the United States, to perform noncombatant service in the Armed Forces of the United States, and to perform work of national importance under civilian direction [unless exempted therefrom].

(14) I am able to read, write, and speak the English language [unless exempted therefrom], and I have a knowledge and understanding of the fundamentals of the history, and of the principles and form of government of the United States.

(15) Wherefore I request that I may be admitted a citizen of the United States of America. I swear [affirm] that I know the contents of this petition for naturalization subscribed by me, and that the same are true to the best of my knowledge and belief, and that this petition is signed by me with my full, true name. **So help me God.**

(16) _____
(Full Name, Without Abbreviations)

When Oath Administered by Clerk or Deputy Clerk of Court
Subscribed and sworn to (affirmed) before me by above-named petitioner in the respective forms of oath shown in said petition and affidavit, and filed by said petitioner, in the office of the clerk of said court at NEW YORK, NEW YORK

When Oath Administered by Designated Examiner
Subscribed and sworn to (affirmed) before me by above-named petitioner in the respective forms of oath shown in said petition and affidavit at _____ this _____ day of _____, 19 _____

this 30TH day of JULY, 19 91
JOSEPH F. CLODT, (ACTING)
Deputy Clerk

I HEREBY CERTIFY that the foregoing petition for naturalization was by petitioner named herein filed in the office of the clerk of said court at _____ this _____ day of _____, 19 _____

[SEAL]

Clerk _____
Deputy Clerk _____

FORM D-502 (REV. 11/03/15)

RESULT OF EXAMINATION					COURT ACTION						
English	Speaks	Reads	Write	Classes	Grade	Date	DENIED				
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G-325 ID					G-325B		Grounds	13			
G-325 Rec. BROOKLYN					N-426		Examiner				
G-325C					Other		Cont'd				

Eligibility 101 (b) OK

Documents presented: [Redacted]

(U. Requested)

OFFICER

APR 22

ARC

(12) ...

(13) ...

(14) ...

(15) ...

(16) ...

(17) ...

(18) ...

(19) ...

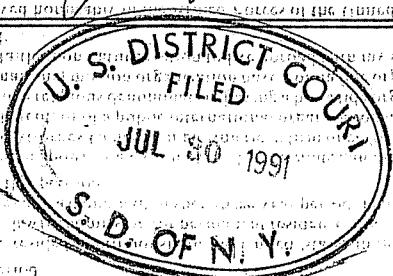
(20) ...

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(30) ...

U.S. DISTRICT COURT

CLERK

[Redacted]

[Redacted]

[Redacted]

APPROVED AND FORWARDED:

[Redacted]

BY: [Redacted]

[Redacted]

[Redacted]

[Redacted]

UNITED STATES OF AMERICA

TO BE FORWARDED TO
IMMIGRATION AND NATURALIZATION SERVICE

No. 14 886 939

DEPARTMENT OF



NATURALIZATION

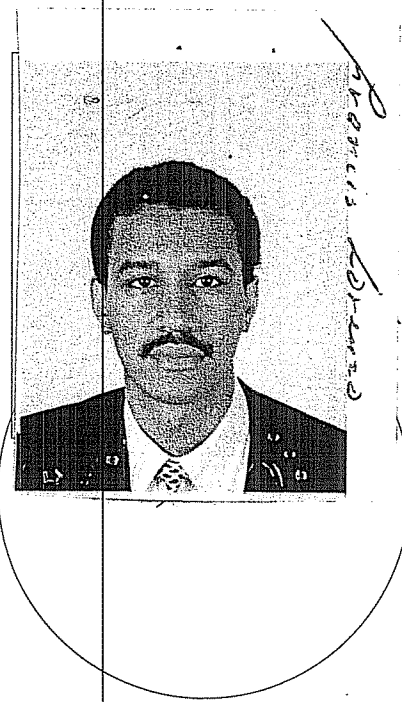
Petition No. 989386

• DUPLICATE •

I-95 Registration No. [REDACTED]

Personal description of holder as of date of naturalization: Date of birth [REDACTED] 1967 sex MALE
complexion MEDIUM color of eyes BROWN color of hair BLACK height 5 feet 8 inches
weight 140 pounds; visible distinctive marks NONE
Marital status SINGLE Country of former nationality DOMINICAN REPUBLIC

I certify that the description above given is true, and that the photograph affixed hereto is a likeness of me.



Francis Lorenzo
(Complete and true signature of holder)

UNITED STATES OF AMERICA } ss:
SOUTHERN DIST. NEW YORK }

Be it known that at a term of the DISTRICT Court of
THE UNITED STATES
held pursuant to law at NEW YORK CITY
on AUGUST 21, 1991 the Court having found that
FRANCIS LORENZO
then residing at BRONX, NEW YORK
intends to reside permanently in the United States (when so required by the
Naturalization Laws of the United States), had in all other respects complied with
the applicable provisions of such naturalization laws, and was entitled to be
admitted to citizenship, thereupon ordered that such person be, and (he) was
admitted as a citizen of the United States of America.
In testimony whereof the seal of the court is hereunto affixed this 21ST
day of AUGUST nineteen hundred and
NINETY-ONE

James M. Parkison
Clerk of the U. S. DISTRICT Court.

By Francine Madorna Deputy Clerk.

IT IS PUNISHABLE BY U. S. LAW TO COPY,
PRINT OR PHOTOGRAPH THIS CERTIFICATE,
WITHOUT LAWFUL AUTHORITY.

DEPARTMENT OF JUSTICE