

# **7 FAM 600 PROTECTION OF PROPERTY AND PERSONAL ESTATES ABROAD OF U.S. CITIZENS**

## **7 FAM 600 (This is the OLD Numbering Scheme)**

### **7 FAM 601 INTRODUCTION**

*(TL:CON-7; 7-30-84)*

American ownership interests in foreign countries are regarded by many U.S. citizens as part of the national wealth of the United States and therefore deserving of protection. The American owner may be an individual, a partnership, an estate or trust, or a corporation or other entity organized under the laws of a State of the United States. In some cases, U.S. ownership interests in foreign corporate organizations, when U.S. citizens own more than 50 percent of a corporation, are substantial and warrant limited consular protection.

### **7 FAM 602 DEFINITIONS**

a. The following terms relate to the protection of property of U.S. citizens abroad:

(1) "Bailee" means a person to whom property is delivered in trust for a limited time.

(2) "Expropriation" means the compulsory taking of private property for a public purpose upon payment of compensation.

(3) "Governing law", with respect to real property, generally means the law of its location or site, and, with respect to personal property, generally means the domicile of the owner, regardless of where the personal property is located or the nationality of the owner.

(4) The "Most favored nation" principle, as found in treaty provisions, means the principle which accords to U.S. citizens the rights enjoyed by citizens of a third country.

(5) The "national" treatment, as found in treaty provisions, means the principle which accords to U.S. citizens the same rights and privileges accorded to the host country's own citizens.

(6) "Nationalization" means an act by which the property of a private individual or corporation has become the property of a particular nation by some process of law.

(7) "Property", in the legal sense, means the indefinite right of use, control, and disposition which one may lawfully exercise of a particular thing or object. In the popular sense, property is used to describe the subject itself, such as a tract of land. In a constitutional sense, property is composed of elements on the unrestricted right of use, enjoyment, and disposal of the particular subject of property, including every species of estate, and everything which one person or group can own or transfer to another. Generally, property is classified either as real or personal, or as movable or immovable.

(8) "Personal property" means all categories of property except real property. Thus personal property includes cars, clothing, and other tangible objects, as well as intangible objects such as checks or promissory notes.

(9) "Real property" means land, and generally whatever is erected or growing on or affixed to land.

(10) "Seizure" means an act, by an officer of the law, of taking possession of property in consequence of the owner's violation of a public law.

(11) "Sovereignty" means the international independence of a state, combined with the right and power of regulating its internal affairs without foreign dictation. Such power would entail, among other things, the right to make laws, to execute and to apply them, to impose and collect taxes and levy contributions, to make war or peace, and to form treaties of alliance or of commerce with foreign nations.

b. Additional definitions on personal estates of U.S. citizens are given in section 7 FAM 640.2 .

## **7 FAM 603 AUTHORITY**

a. Consular officers do not have statutory authority to accept the property of U.S. citizens for safe-keeping, except in three instances:

(1) When acting as the provisional conservator of the estate of a deceased U.S. citizen (22 U.S.C. 4195-4197; see section 7 FAM 640 Appendix A 640.3 );

(2) When taking custody of the effects of a deceased U.S. citizen seaman (46 U.S.C. 621, 622, 624); and

(3) When taking jurisdiction over a U.S. disaster at sea (46 U.S.C. 721).

b. The rights of U.S. citizens to the ownership of property and related interests abroad are considered in many treaties of friendship, commerce, navigation, civil aviation, the disposition of real and personal property, maritime matters, taxes, and claims. Special property protection or disposition provisions are included in treaties to prevent discrimination against U.S. citizens, as compared with treatment accorded in the host country to third country nationals.

## **7 FAM 604 PROTECTIVE SERVICES FOR PROPERTY OWNERS**

Generally, protective services that a post may perform for U.S. citizens include:

(1) Providing a list of attorneys;

(2) Referring a case to the proper local officials; and

(3) Facilitating communication when a citizen reports having difficulty in learning the status of an ongoing case.

### **7 FAM 604.1 Ownership Responsibility**

a. U.S. citizens who own property abroad and who thereby have assumed responsibilities concurrent with ownership of property in a foreign country are expected to take steps on their own initiative to safeguard their interests to employ private legal counsel when the need arises.

b. Consular officers should not act as agents, attorneys, or in a fiduciary capacity and should not participate in judicial proceedings.

c. If a citizen is denied access to judicial remedies for establishing or protecting property rights or is a victim of discriminatory treatment, diplomatic representation may be required.

## **7 FAM 604.2 Consular Assistance**

a. Consular officers should make every effort to assist U.S. citizens in making their own arrangements to protect personal property that does not involve consular custody of the property or the use of U.S. Government funds.

b. In countries where unstable conditions are chronic or appear imminent, consular officers may urge U.S. citizens to consider the need for policies which specifically provide coverage in case of war or civil disorder or to consider the advisability of transferring to a more secure location abroad or to the United States their personal property of special value. Posts should also try to obtain current information on the reliability of bank transfers, storage and deposit facilities, compounds, or buildings located at a distance from the most likely objects of attack for storing vehicles or other property, keeping up-to-date information on the most secure transport routes available, and encouraging cooperative efforts to look out for U.S. citizen-owned property.

c. Officers should not accept private property for safeguarding, even in a situation that appears to be a public emergency, without the prior approval of the Department. In situations not involving a public emergency, consular officers should continue to provide assistance to U.S. citizens as stated in sections 7 FAM 604 and 7 FAM 604.2 a, b.

## **7 FAM 605 ACTION OFFICE RESPONSIBILITY**

As a result of several troublesome incidents in recent years, the Department has reviewed existing policy and regulations on the responsibility of consular personnel to protect the property of U.S. citizens abroad.

### **7 FAM 605.1 At Post**

a. The action office at post for non-commercial property assistance requests is generally in the consular section.

b. All consular personnel should be aware that, in the limited circumstances in which property owned or claimed by U.S. citizens is accepted for safeguarding (see section 7 FAM 603 ), the officer who accepts the property is personally accountable for ensuring that it is properly inventoried, securely stored, and disposed of in accordance with the regulations described in this chapter.

c. Each post should review its procedures and facilities for safe storage and make changes necessary to comply with the guidelines given in this chapter.

d. Posts should keep the Department (CA/OCS/CCS) advised of problems encountered as a result of requests from U.S. citizens or citizen-owned business firms for safekeeping of private property at post.

## **7 FAM 605.2 In the Department**

A number of offices in the Department of State have an interest in the protection of property and estates of U.S. citizens abroad.

### **a. Office of Citizens Consular Services**

The Office of Citizens Consular Services (CA/OCS/CCS) is the action office in the Department for most cases that involve the protection of private property of private U.S. citizens. This office continuously reviews property protection issues and problems to assure effective policy and support services. Posts should address inquiries to the appropriate geographic division of Citizens Consular Services, using the TAGS symbol CASC for telegrams about property.

### **b. Office of the Legal Adviser**

When a U.S. citizen appears to have suffered from discriminatory policies of a foreign government over property which the citizen owns abroad, the Office of the Legal Adviser of the Department, International Claims and Investment Disputes (L/CID), generally make the final determination as to whether the facts and circumstances of the case warrant formal espousal of a claim against the foreign government. At its discretion, L/CID has the authority to take action to settle, compromise, release, or even abandon the claim without the consent of the citizen involved. Generally, the formal espousal of a claim is not made unless the U.S. citizen has demonstrated that an attempt has been made to resolve the matter through judicial remedies in the foreign country.

### **c. Other Offices**

Occasionally, the bureaus of Economic and Business Affairs, Intelligence and Research, Oceans and International Environmental and Scientific Affairs, International Narcotic Matters, and the geographic bureaus are interested in specific property cases that have political, economic, or legal implications and may contact a post.

## **7 FAM 605.3 Outside the Department**

The Department and Foreign Service posts receive numerous inquiries from citizens that involve the functions of other U.S. Government agencies. Consular personnel are not expected to furnish authoritative information on property-related matters beyond the scope of consular duties and responsibilities, but they should be aware of the Federal agency to which the matter should be referred. For a summary chart of these agencies and their basic functions, see section 7 FAM 605 Appendix A 605.3 .

## **7 FAM 606 THROUGH 609 UNASSIGNED**

# 7 FAM 605 Appendix A 605.3

(TL:CON-7; 7-30-84)

## AGENCIES WITH PROPERTY-RELATED FUNCTIONS

### Outside Agency

### Property-Related Functions

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| 1. Federal Aviation Administration<br>FCB - 10A<br>800 Independence Ave., SW.<br>Washington, D.C. 20591  | Maintains records of all aircraft registered in the United States.   |
| 2. Department of Treasury:<br><br>U.S. Customs Service<br>1301 Constitution Ave., NW.<br>Washington, D.C. 20229<br><br>Foreign Assets Control Office<br>Room 500<br>1331 G Street, NW.<br>Washington, D.C. 20229 | Assesses and collects duties, taxes, and fees on imported merchandise; enforces customs and related laws; is responsible for the transfer of merchandise into and out of foreign trade zones.<br><br>Regulates commercial transactions with designated foreign countries. See 31 CFR, Chapter V. |
| 3. Patent and Trademark Office<br>CP-3, Crystal Plaza<br>2201 Jefferson Davis Highway<br>Arlington, VA 20231<br><br>trademark cases, licenses  | Acquires and protects foreign rights in inventions of U.S. Government, classifies goods and services under Trademark Act, de vises and distributes forms in patent and foreign patents acquired by U.S. Government, registers Government interests in patents.                                   |
| 4. Library of Congress<br>Washington, D.C. 20540   | Researches the applicability of foreign law as it relates to a particular property matter.   |
| 5. Copyright Office<br>1921 Jefferson Davis Highway<br>Arlington, VA 20559   | Handles copyright registration and other matters relating to copyright material.   |
| 6. Department of Commerce<br>14th Street and<br>Constitution Avenue, NW.<br>Washington, D.C. 20230   | Handles trade complaints of a U.S. firm against a foreign firm for merchandise usually valued over \$500.00.   |
| 7. Civil Aeronautics Board<br>Universal Building<br>825 Connecticut Ave.,<br>Washington, D.C. 20428  | Handles complaints of U.S. citizens about commercial airlines.   |

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| 8. Foreign Bondholders<br>Protective Council, Inc.<br>G.P.O. Box 3063<br>Brooklyn, N.Y. 11202                                | A non-profit, non-governmental agency that settles defaulted foreign dollar bonds.   |
| 9. Foreign Claims<br>Settlement Commission<br>1111 20th Street, NW.<br>Washington, D.C. 20579                                | Determines claims of U.S. nationals against foreign governments for compensation based on losses sustained by U.S. nationals; acts in an advisory capacity in the area of foreign nationalization or other taking of American-owned property. See 45 CFR, Chapter V. |
| 10. National Transportation<br>Safety Board<br>FOB - 10A<br>800 Independence Ave., SW.<br>Washington, D.C. 20594             | Has responsibility for investigating aircraft accidents.   |
| 11. Securities and Exchange<br>Commission<br>450 Fifth Street, NW.<br>Washington, D.C. 20549                                 | Protects the interests of the public and investors against malpractices in the securities and financial markets.   |
| 12. Overseas Private<br>Investment Corporation<br>Board of Trade Building<br>1129 20th Street, NW.<br>Washington, D.C. 20527 | Assists U.S. investors in finding investment opportunities in developing countries, insurance to protect their investments, and loans and loan guarantees to help finance their projects.  |

# **7 FAM 610 PROCEDURES FOR HANDLING PROPERTY ASSISTANCE REQUESTS**

*(TL:CON-7; 7-30-84)*

This chapter sets forth the procedures to be followed when the action office is at a Foreign Service post.

## **7 FAM 611 ACCEPTANCE OF PRIVATE PROPERTY**

### **7 FAM 611.1 Property That May Be Accepted**

Unless a consular officer has the Department's permission, and except as provided in section 7 FAM 612 , the only private property of U.S. citizens that should be accepted routinely for safekeeping or transmission to some other destination is:

- (1) Property belonging to the estate of a deceased U.S. citizen; or
- (2) Property over which the officer has jurisdiction as a result of a catastrophe at sea (see section 7 FAM 603 a(1)).

### **7 FAM 611.2 Department Policy**

a. Consular officers must not accept personal property for storage, safeguarding, or for transmittal to another destination (see 22 CFR 71.5) in any circumstance except a public emergency. While the circumstances that can be considered a public emergency have not been defined, for legal and practical reasons the Department has generally prohibited officers from accepting private property, except as specified in sections 7 FAM 603 a and 7 FAM 611.1 , in which instances there is clear statutory authority for doing so.

b. Frequently, situations that appear to constitute a public emergency, such as a revolution, civil war, a riot, or a civil disorder, often pose a more direct threat to the security of the post and its personnel than to private property. Officers of the post, if not themselves directly under attack, must concentrate their efforts on measures to protect the lives and safety of U.S. citizens. They have limited time or facilities for arranging to inventory, receipt, and secure the personal valuables of U.S. citizens who are departing the country or who fear that local storage companies, banks, and transport companies are not secure. Events of recent years have shown that the most secure storage vaults in U.S. embassies offer only limited protection when the host government is unable or unwilling to fulfill its responsibility to protect diplomatic premises.

c. Even if private property could be stored safely, serious problems may arise in returning the property to the legal owner, as the post may not send private property by diplomatic pouch or export it in violation of the laws of the host country, the United States, or international convention (see Index App. D). The officer who accepts custody of personal property may incur personal liability and/or liability on the part of the U.S. Government for the value of the property, even though the officer has obtained a signed statement or waiver absolving the officer and the U.S. Government from any liability as required by Executive Order No. 8547, September 24, 1940. Property should never be accepted when it is anticipated that the post will be evacuated.

d. Exceptions to this policy may be made for cases involving a substantial U.S. public interest, such as a request to safeguard private business or scientific documents that are vital to the U.S. national security.

## **7 FAM 611.3 Procedures for Accepting Property**

If a consular officer is authorized by the Department to accept private property from an owner for storage or transmission, the officer must make certain that the following steps are taken:

a. The owner of the property must sign a disclaimer approved by the Department. If the citizen refuses to sign the disclaimer, the officer must refuse to accept the property.

b. The consular officer prepares an inventory of the property. The officer should exercise good judgment in the handling of the property. The officer should not accept any closed or sealed receptacle, such as a sealed envelope, sealed package, or locked suitcase, without thoroughly inspecting its contents in the presence of the person who is relinquishing custody. The inventory must reflect accurately the contents of any receptacle. If there is any reason to believe that a closed and/or sealed container may contain a harmful substance that might endanger personnel at post, the officer should advise the person who wants to relinquish it that it cannot be accepted without the Department's prior approval. The officer may accept a sealed item without opening it only when authorized by the Department and must so indicate on the inventory.

c. Both the owner and consular officer sign a receipt containing the inventory of the items accepted and all known addresses and telephone numbers of the owner. A copy of the receipt is retained by each.

d. The consular officer who accepts the property is personally accountable for storing it in a secure area to which only the officer has access, keeping an accurate record of accountability, and turning over the inventory, disclaimer, receipt, record of accountability, and property to the officer's successor.

e. The consular officer obtains and sends to the Department (CA/OCS/CCS) a summary of the host country's law of bailments if this has not been done in a fairly recent case.

f. The consular officer submits a detailed report to the Department on the circumstances leading to acceptance of the property.

g. The originals of all completed documents cited in subsection 7 FAM 611.3, items a through f, should be sent promptly to the Department. For recordkeeping purposes the post may retain an authenticated copy of these documents.

## **7 FAM 612 DISPOSITION OF LOST, STOLEN, OR MISPLACED PROPERTY OF NOMINAL VALUE**

Lost or stolen billfolds, purses, luggage, and other personal items having little commercial value and ostensibly belonging to U.S. citizens require some consular protective action. Such items, of value primarily to their owners, are often received at post in the mail or directly from third persons.

### **7 FAM 612.1 Acceptance for Transmission**



a. Lost, stolen, or misplaced property of nominal value may be accepted for transmission only--never for safekeeping. If the owner's address cannot be found readily, the Department's help should be requested.

b. When postage fees are substantial the consular officer should require advance payment of postage or shipping fees by property owners.

## **7 FAM 612.2 Role of Local Authorities**

a. If local authorities advise that they have possession of, or have information about the location of lost or stolen property of U.S. citizens and that the authorities are willing to retain it, they should be urged to retain the property while the post tries to locate the owner and ascertains the owner's wishes in the matter. The authorities should be asked to provide, if possible, the name and address or other identifying data of the probable owner of recovered, lost, or stolen property. Upon obtaining this information, the consular officer should inform the owner of the whereabouts of the property and how it can be retrieved. The Department's assistance may be sought in notifying property owners.

b. If the property appears to have more than nominal value, the consular officer should notify the Department and provide details, before accepting the property.

c. If hotels, tour guides, or other local holders of lost or stolen property attempt to give property to the post for transmission to the United States, they should be encouraged to return it to the owner directly.

## **7 FAM 612.3 Final Disposition**

a. If U.S. citizen ownership has been established, the consular officer should request the Department (CA/OCS/CCS) to notify the owner, in writing and by certified mail, that the lost, stolen, or misplaced property has been located and that the post will arrange for disposal of it if the owner does not respond to the notice within 3 months. If the owner seeks to reclaim the property, the Department will advise the post what to do with the property. The entire procedure (notification, response, and retrieval of the property) should be completed within one year.

b. If the owner does not respond within 3 months, the Department will advise the post to dispose of the articles by one of the following methods;

(1) Donation to a local organization of U.S. citizens;

(2) Public sale or auction, if allowable under local law;

(3) Donation to a local (host country) organization; or

(4) Surrender to local authorities. The disposition should accord with local law or practice.

c. Unclaimed articles must not be sent to the Department, either by pouch or by any other method. Instructions in this section should not be confused with instructions on the disposition of unclaimed articles among the personal estates of deceased citizens (see section 7 FAM 646.5 - 7 FAM 646.7 ).

## **7 FAM 613 TOURIST TRADE COMPLAINTS**

The consular section is expected to handle tourist trade complaints involving the purchase of merchandise for personal use by a U.S. citizen, but exceptions may be made at the discretion of the post's principal officer or chief of mission.

## **7 FAM 613.1 Consular Liaison**

a. Consular officers should use their good offices to resolve overseas tourist trade complaints. They should try to assist U.S. citizens by determining the status of each case and should provide citizens with prompt, courteous, and responsive replies.

b. Posts at the more popular tourist centers may wish to seek out and identify alternatives for following up disputes arising from “tourist-type” purchases. Such alternatives might require action by government or by private facilities, such as the local tourist bureau, a board of trade office, the local equivalent of the Better Business Bureau, or other offices. If the consular officer's personal contact with the foreign party has been unsuccessful, every effort should be made to refer routine or minor trade complaints to such offices for assistance. If those offices cannot resolve a dispute satisfactorily, and if legal counsel is needed, the consular officer should provide the complaining citizen with a list of local attorneys.

## **7 FAM 613.2 Replies to Complainants**

### **a. Expeditious Post Replies**

Consular officers almost always have to make a judicious assessment of competing priorities for use of their time. The Department recognizes that each post needs as much latitude as possible in responding to routine trade complaints. Form letters may be devised to handle a large volume of routine tourist-type complaints (see 025.3g).

### **b. Referral to Local Agencies**

If a local government agency handles tourist matters, cases may be referred to that agency. If the consular officer suggests that the citizen communicate directly with the agency, the citizen should be advised to submit pertinent documentation in the language of the host country unless the agency is equipped to respond to inquiries in English.

## **7 FAM 614 CUSTOMS VIOLATIONS CLAIMS**

Citizens often request assistance in the recovery of personal property that has been turned over to customs authorities. This may have occurred because a citizen was not aware of applicable laws and regulations, resulting in failure to list a certain article on the customs declaration form upon entering the country, or the citizen was not able to show evidence of the purchase of an item.

## **7 FAM 614.1 Consular Assistance**

If the citizen provides adequate information, the post should ask the customs officials to determine the steps that can be taken to recover the property. If legal action is required, the citizen should be given or mailed a list of local attorneys.

## **7 FAM 614.2 Local Customs Regulations**

a. Consular officers should be familiar with general provisions of local customs regulations, particularly with penalties for failure to declare certain items. The foreign law digests in the Martindale-Hubbell Law Directory give a summary of relevant laws on customs regulations which are of interest to U.S. citizens.

b. If the post is requested to assist in a recurring number of customs violations cases, it may be useful to ask a foreign government official for a copy of the relevant sections of the host country's customs regulations. A general travel information sheet may also be devised, for dissemination by the post and/or the Department, setting forth applicable host country customs regulations and suggesting available recourses in the event goods acquired by U.S. citizens abroad are seized under cover of law by customs officials.

## **7 FAM 614.3 Protesting Unfair Treatment**

If consular officers become aware of activities whereby U.S. citizen-owned property is illegally or arbitrarily confiscated, the matter should be raised in an appropriate manner with local officials. If the problem is not resolved satisfactorily, a diplomatic protest may be required. The appropriate geographic division of the Office of Citizens Consular Services should be kept advised of continuing customs violation problems.

## **7 FAM 615 ASSISTANCE IN MOTOR VEHICLE ACCIDENTS**

Consular officers are frequently asked by U.S. citizens to gather information on automobile accidents. Citizens often encounter difficulties in communicating with foreign auto dealers, insurance agents, and attorneys.

### **7 FAM 615.1 Consular Assistance**

If a citizen has made reasonable efforts to obtain the information, to no avail, and has supplied sufficient facts concerning the accident, the consular officer may render assistance similar to that provided in trade complaints (see section 7 FAM 613.1 ). Resources of the post should not be used to translate documents in a private matter, procure vast numbers of records, and perform other services of an investigative or legal nature.

### **7 FAM 615.2 Role of Foreign Agencies**

If a foreign agency exists whose functions are similar to the functions of the American Automobile Association in the United States, that agency's assistance may be useful to a U.S. citizen who has been involved in a motor vehicle accident. The foreign agency that registers motor vehicles also may provide helpful information.

## **7 FAM 615.3 Accident Involving Foreign Government-Owned Vehicle**

A U.S. citizen who has been in an accident involving a foreign government-owned vehicle should be informed whether claims can be made against the host country through administrative procedures similar to those cited in the U.S. Federal Tort Claims Act (28 U.S.C. 2672). Applicable provisions of the Foreign Sovereign Immunities Act (28 U.S.C. 1601-1611; see Chapter 900) may also be explained.

## **7 FAM 616 AIRCRAFT AND BOAT SEIZURE CLAIMS**

In recent years the number of accidents, incidents, or seizures abroad involving aircraft and vessels owned by U.S. citizens has increased dramatically. This is especially true in the Western Hemisphere. The vast number of such incidents are related to the smuggling of illegal drugs or other contraband.

### **7 FAM 616.1 Assisting Persons with Legitimate Interests**

Consular officers have a responsibility in such incidents to provide limited assistance to the legitimate U.S. owners, insurers, or financiers of such property. While property, when validly documented with U.S. registry, qualifies for protective services, the same services should be provided to U.S. interested parties whose property is registered in another country.

### **7 FAM 616.2 No Determination of Fault**

Consular officers are not required or authorized to determine the guilt or fault of any individual involved directly or peripherally in these incidents. That is a matter for the local legal system.

## **7 FAM 616.3 Department Notification Role**

A Department notification program has been established whereby the ownership of such property is confirmed and the owner contacted when information has been received that an incident has occurred. The appropriate geographic division in the Office of Citizens Consular Services (CA/OCS/CCS) informs the individuals of the general steps necessary to initiate recovery of the property, provides them with lists of attorneys, and advises them how to contact posts abroad for information on local legal systems and conditions.

Posts should anticipate receiving inquiries from Members of Congress and attorneys representing owners, insurance companies, and other interested parties in many of these cases.

## **7 FAM 616.4 Reporting Aircraft and Boat Seizures**

Each Foreign Service post is responsible for notifying local authorities when an accident or incident involving an aircraft or vessel of U.S. registry occurs. When the information first comes to the consular officer's attention, the presence of such property in the post's consular district requires that the consular officer notify the Department. This should be done whether the aircraft or vessel is present following an accident or whether it was seized by the local authorities. Available information should be sent by telegram to the Department (CA/OCS/CCS), including the following information (see 7 FAM 616 Exhibit 616.4 ):

- (1) Aircraft registry number and serial number, or vessel registry number;
- (2) Aircraft/vessel type, make, and model;
- (3) Date and time (local and Zulu) of accident or incident;
- (4) Location of accident or incident and current location, if property has been removed from the site;
- (5) Name of pilot/master or captain;
- (6) Name of owner and owner's address, if known;
- (7) Status of crew;
- (8) Condition of aircraft/vessel (include comments on damage and legal status);
- (9) Legal basis for detention;
- (10) Name of attorney; and
- (11) Narrative account or comments, as appropriate (including name of reporting official, citation of applicable civil or criminal laws or aviation/nautical regulations violated, whether the case comes under the jurisdiction of a consular convention, and, if so, its status under the convention).

## **7 FAM 616.5 Assistance to Other Federal Offices and Agencies**

The information provided in this report assists several other Federal agencies, which rely on accident or incident notifications to fulfill their related responsibilities (see section 7 FAM 605.2 ).

## **7 FAM 617 REAL PROPERTY INQUIRIES**

Consular officers frequently are asked to respond to questions posed by citizens on inheritance, acquisition, and sale of real property in a foreign country. Consular officers should be familiar with treaty provisions in force between the United States and their country of assignment which relate to the rights of aliens to inherit, acquire, and own real and personal property. In many instances, these treaty provisions are found in treaties of friendship, commerce, and navigation and in consular conventions. Officers may refer to the Department's publication, *Treaties in Force*, which is compiled annually by the Office of the Assistant Legal Advisor for Treaty Affairs, in the post library.

### **7 FAM 617.1 Federal Regulations on Real Property**

Federal regulations specifically provide that a consular officer should protect the interests of U.S. citizens claiming foreign estates and inheritances when treaty provisions, local laws, or established usage permit (22 CFR 71.3). Moreover, a consular officer has responsibility to observe informally the proceedings of an estate case, if feasible (see 22 CFR 71.5 and 7 FAM 641.2 ), when real property is left by a deceased U.S. citizen within the country where the death occurred or where the decedent was domiciled at the time of death. The officer should report to the Mission or the Department any apparent irregularity or unnecessary delay in the settling of the foreign estate (see section 7 FAM 618 and 22 CFR 71.4).

### **7 FAM 617.2 Consular Assistance in Real Property Cases**

Consular officers are prohibited from performing legal services on behalf of citizens. Inquirers, however, should be provided with as much general information as possible. For example, many requests for assistance involve the obtention of a deed in the foreign country or other foreign public record showing evidence of ownership by a U.S. citizen.

In their contacts with various local officials, consular officers may be able to obtain the name and address of a foreign office or establishment where records are maintained. The information may be helpful when the officer is trying to be responsive to an inquiry about real property. The [Martindale-Hubbell Law Directory](#) contains useful information in its digests of laws of foreign countries under such headings as "real property," "deeds," "records," and "notaries public."

## **7 FAM 618 REPLIES TO PROPERTY CASE INQUIRIES**

Consular officers may receive inquiries about property claims or interests from many sources and often can respond promptly and directly.

### **7 FAM 618.1 Direct Reply Format**

Routine property case inquiries sent to the Department from a Member of Congress or other interested party generally are forwarded to the post for a direct reply (see 7 FAM 618 Exhibit 618.1 ). The Department (CA/OCS/ CCS) reviews such cases prior to transmission to the posts, for adequacy of information submitted by the inquirers. In most instances, a property case referral includes:

- (1) The name and address of the citizen and the foreign party;
- (2) The nature of the case;
- (3) Copies of documents which describe the nature of an inquiry or support the position of the citizen;
- (4) Statements regarding steps, if any, that have been taken by the citizen to resolve the matter; and
- (5) Other information that will assist the post in its investigation of the matter.

## **7 FAM 618.2 Congressional Interest Response**

In cases with Congressional interest, the post often is requested to respond directly to the inquiry, using the H-PASS telegram format (see 7 FAM 618 Exhibit 618.2 ).

## **7 FAM 618.3 Direct Relay Response**

Posts are reminded that language used in direct relay responses should need no clarification and should contain only unclassified material. Comments intended for the use of the Department should not be included on direct relay telegrams but should be transmitted separately.

Consular officers should try to answer specific questions that are raised by the inquirer and, if unable to do so, should suggest other sources from which the inquirer may obtain answers to the questions raised (see sections 7 FAM 613.1 , 7 FAM 614.1 , 7 FAM 614.2 , 7 FAM 615.1 , 7 FAM 615.3 , 7 FAM 616.3 , 7 FAM 616.4 , 7 FAM 617.2 , 7 FAM 618.1 ). If the subject matter of the inquiry is clearly beyond the scope of the duties and responsibilities of the consular officer, the response should tactfully state so.

## **7 FAM 619 UNASSIGNED**



# 7 FAM 616 Exhibit 616.4

## Sample of a Telegram Reporting Seizure of Property by Local Authorities

Sample of a Telegram Reporting Seizure of Property by Local Authorities

<b>ACTION COPY</b>	UNCLASSIFIED Department of State	INCOMING TELEGRAM
PAGE 01 ACTION <u>OCS-06</u>	KINGST 07405 121835Z	9128
INFO OCT-00 ADS-00 EB-08 ARA-00 SSO-00 AMAD-01	CA-02 FAA-00 /017 W	0000-00
O 121829Z JUL 84 FM AMEMBASSY KINGSTON TO SECSTATE WASHDC IMMEDIATE 2309		
UNCLAS KINGSTON 07405		
E. O. 12356: N/A TAGS: CASC SNAR SUBJ: AIRCRAFT INCIDENT REPORT		
1. REGISTRATION NO. N5039J		
2. CESSNA 310		
3. JULY 3, 1984		
4. TINSON PEN AERODROME, KINGSTON, JAMAICA		
5. ANDRE AHWEE, PILOT OF AIR JAMAICA		
6. UNKNOWN		
7. ONE CREW MEMBER, RAYMOND LYONS		
8. UNDamaged. THE JAMAICAN NARCOTICS SQUAD INFORMED THE EMBASSY THAT THE AIRCRAFT HAS NOT BEEN CONFISCATED BY THE JAMAICAN GOVERNMENT		
9. AIRCRAFT NOT DETAINED		
10. NONE		
11. THE AIRCRAFT LEFT THE TINSON PEN AERODROME IN KINGSTON FOR BOSCOBEL AND IS BELIEVED BY THE NARCOTICS SQUAD TO HAVE GONE ON AN ILLEGAL MISSION. THE AIRCRAFT WAS SEEN OVER THE BAHAMAS AND WAS FOLLOWED. IT WENT SOUTH INTO CUBAN AIR SPACE. CLOSE OBSERVATION BY U. S. CUSTOMS SERVICE INDICATED THAT THERE WERE TWO PEOPLE ON BOARD, THERE WERE PACKAGES ON THE AIRCRAFT AND THE CARGO HATCH WAS OPEN. THE AIRCRAFT LANDED AT TINSON PEN AERODROME AND THE TWO OCCUPANTS WERE APPREHENDED BY POLICE AUTHORITIES.		
(DRAFTED: PJ TOMLINSON/APPROVED: GJPETERSON) STEWART		

*OCS/ARAT*

UNCLASSIFIED

# 7 FAM 618 Exhibit 618.1

(TL:CON-7; 7-30-84)

## Sample of a Department Memorandum to Post About a Routine Property Case



United States Department of State

Washington, D.C. 20520

UNCLASSIFIED  
MEMORANDUM

July 25, 1984

TO: AmEmbassy COPENHAGEN  
FROM: DEPARTMENT OF STATE (CA/OCSCCS/EUR)  
TAGS: CASE (PHARR, LINDA A.)  
SUBJECT: Nonreceipt of Merchandise  
SPECIAL INTEREST: ( ) White House (X) Congressional ( ) Other  
For: The Honorable David A. Smith

The Office of Citizens Consular Services has received the enclosed communication, which is forwarded to you for appropriate and prompt action as indicated:

- (X) Direct reply by "H" PAS telegram to the special interest party identified above (INFO: CA/OCS/CCS/EUR) .
- ( ) Reply by official direct relay telegram to: \_\_\_\_\_  
Address: \_\_\_\_\_  
(INFO: CA/OSC/CCS/ ) .
- ( ) Written reply to special interest party identified above (INFO: CA/OSC/CCS/ ) .
- ( ) Direct report to CCS/ by: \_\_\_\_\_.
- ( ) Return original correspondence with your reply. (If replying by telegram, correspondence will be returned by CA/OSC/CCS/
- ( ) For your information

### REMARKS

Note.--Whenever the action officer is in doubt or deems it necessary, for example, if classified or administratively controlled material is involved, the reply should be directed to the Office of Citizens Consular Services.

Enclosures:  
Copy of incoming correspondence.

UNCLASSIFIED

# 7 FAM 618 Exhibit 618.2

## Sample of a Post Direct Reply Telegram to a Member of Congress on a Property Case

Sample of a Post Direct Reply Telegram to a Member of Congress on a Property Case

# TELEGRAM

INDICATE  
 COLLECT  
 CHARGE TO

12356 E.O. 12812 TAGS: SUBJECT: ACTION:	FROM	AmEmbassy COPENHAGEN	CLASSIFICATION	UNCLASSIFIED
	N/A CASC (PHARR, LINDA A.) Non-Receipt of Merchandise			
SECSTATE WASHDC H-PASS: HONORABLE DAVID M. CLARKSON, HOUSE OF REPRESENTATIVES, WASHINGTON, D.C. DEAR MR. CLARKSON: THE DEPARTMENT OF STATE HAS ASKED THAT I RESPOND TO YOUR INQUIRY OF NOVEMBER 13 ON BEHALF OF MS. LINDA PHARR REGARDING THE PURCHASE OF MERCHANDISE FROM THE SHOP OF MR. AVERY DAWSON. MR. DAWSON HAS ASSURED US THAT THE MERCHANDISE WAS SHIPPED TO MS. PHARR ON OCTOBER 15. HE INFORMED US THAT IF SHE HAS NOT RECEIVED THE SHIPMENT BY THE END OF DECEMBER HE WILL INITIATE POSTAL TRACER ACTION. SHOULD YOU REQUIRE FURTHER ASSISTANCE IN THE MATTER, DO NOT HESITATE TO COMMUNICATE WITH US. American Embassy Copenhagen, Denmark THOMPSON				
DRAFTED BY: <i>TJ Paul</i> CONS: TD Paul:dra CLEARANCES:		DRAFTING DATE 8/15/84	TEL. EXT. 12746	CONTENTS AND CLASSIFICATION APPROVED BY: DCM:RMGreene <i>rmg</i>

UNCLASSIFIED  
 CLASSIFICATION

OPTIONAL FORM 153  
 (Formerly FS-413)  
 January 1975  
 Dept. of State

