

7 FAM 1020 AUTHORITIES

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

7 FAM 1021 TREATY AUTHORITY

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a. Authority for the establishment of protecting powers or third country representation includes the following:

- (1) Vienna Convention on Consular Relations (VCCR), Article 8 provides:

Article 8, Vienna Convention on Consular Relations (VCCR)

“Upon appropriate notification to the receiving State, a consular post of the sending State may, unless the receiving State objects, exercise consular functions in the receiving State on behalf of a third State.”

- (2) Vienna Convention on Diplomatic Relations (VCDR), Article 45 provides:

Article 45, Vienna Convention on Diplomatic Relations (VDDR)

“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.”

- (3) Geneva Convention Relative to the Protection of Civilian Persons, Article 9 provides:

Article 9, Geneva Convention Relative to the Protection of Civilian Persons in Time of War

“The present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of the Power with which they are to carry out their duties.

The Parties to the conflict shall facilitate to the greatest extent possible the task of the representatives or delegates of the Protecting Powers.

The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention. They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties. ”

7 FAM 1022 BILATERAL AGREEMENTS

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

- a. Current bilateral agreements between the United States and a protecting power include the following:

U.S. Bilateral Agreements on Protecting Powers ...		
Foreign State	Protecting Power	Agreement
Cuba	Switzerland	1961 – Present
Iran	Switzerland	May 7, 1980 –present
North Korea (DPRK)	Sweden/Germany	September 1995 – present

Note: The U.S. Interests Section in Havana operates under the legal protection of the Swiss government but is not co-located with the Swiss Embassy. The U.S. Embassies in Bern, Switzerland; Beijing, China; and Stockholm, Sweden serve as central points of communication between CA/OCS and the protecting powers.

- b. See the CA/OCS Intranet for copies of the protecting power agreements.
- c. Historical reference material regarding former protecting power arrangements are available in the Protecting Power feature found in the

CA/OCS Intranet.

7 FAM 1023 REGULATIONS

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

22 CFR 93.1(c)(3) provides for service of process under 28 U.S.C. 1608 through a protecting power in the absence of diplomatic relations between the United States and the foreign State. This provision applies if this service is addressed in the bilateral protecting power agreement. (See 7 FAM 955 and 7 FAM 1071.5 a 8).

22 CFR 93.1(c)(3)

“(3) If paragraphs (c)(1) and (2) of this section are unavailable, through an existing diplomatic channel, such as to the embassy of another country authorized to represent the interests of the foreign state concerned in the United States.”

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