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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

INTERNATIONAL DIVISION

B-202019

APRIL 28, 1981

The Honorable Alexander M. Haig, Jr.
The Secretary of State



115054

Dear Mr. Secretary:

Subject: The 1978 Diplomatic Relations Act's Liability Insurance Provision--A Requirement Needing Added Attention (ID-81-31)

(The Diplomatic Relations Act) of 1978 (Public Law 95-393, September 30, 1978) requires all foreign missions, members of missions and their families and officials of the United Nations entitled to diplomatic immunity to carry liability insurance against risks arising from their operation of motor vehicles, vessels, or aircraft in the United States. It also creates a substantial right of an injured party to proceed directly against the insurance company where the insured member enjoys immunity from suit. The Office of Protocol is responsible for administering the liability insurance requirement pursuant to the authority delegated to the Secretary of State by Executive order dated November 17, 1978. The Department issued regulations imposing this requirement beginning June 1, 1979.

We have reviewed the Office of Protocol's administration of this requirement. Based on our random sample of the foreign diplomatic representatives residing in the Washington, D.C., metropolitan area, there has been substantial compliance with the requirement by those owning motor vehicles. However, we believe the locally established minimum limits of liability coverage which the Department requires the foreign diplomatic representatives to have are inadequate and should be higher.

SUBSTANTIAL COMPLIANCE EXISTS

To determine the extent to which the requirement to carry liability insurance has been met, we selected a random sample of 311 individuals--105 diplomatic officers representing 70 countries; 103 technical and administrative staff representing

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56 countries; and 103 service staff representing 78 countries-- from the Department's "blue" and "white" lists dated February 1980 and January 1980, respectively. We checked the names of these 311 individuals against the insurance information on file at the Department as of September 30, 1980. From this work, we determined that

--20 individuals had terminated employment with the foreign diplomatic missions;

--170 individuals had submitted the required evidence of insurance to the Department; and

--121 individuals had not provided any evidence of insurance to the Department and, therefore, presumably did not own motor vehicles.

In those instances, where insurance information was on file, we verified this information with the individual's named insurance company. Where no insurance information was on file at the Department, we checked the names of these individuals against the title/registration records at the motor vehicle departments in Maryland, Virginia, and Washington, D.C., to see if they owned motor vehicles and thus, should be insured.

Since June 1, 1979, the Office of Protocol had generally accepted as sufficient evidence--without followup verification--the insurance information submitted by these foreign government representatives indicating they were insured. Also, the Office of Protocol had not sought to determine if those individuals not submitting any evidence of insurance actually owned motor vehicles and carried the required liability insurance.

We informed the Office of Protocol that 130 (68 percent) of the 191 individuals who we found to own one or more motor vehicles were confirmed as insured by the named insurance companies. We told the Office of Protocol that the remaining 61 individuals did not have the liability insurance they said they had in the insurance information on file at the Department or had not provided the required proof of insurance to the Department.

We also told the Office of Protocol that we did not directly ask these 61 individuals if they were insured. After further discussion, the Office of Protocol offered to determine if these 61 individuals were insured.

The following table summarizes the individuals we confirmed as insured and the findings by the Office of Protocol.

	<u>Individuals</u>	<u>Percent</u>
Confirmed by GAO as insured based on the insurance information on file at the Department of State	130	68
Confirmed by the Office of Protocol as insured following discussions with the foreign diplomatic representatives and their insurance companies	27	14
Confirmation of insurance overtaken by events (note a)	25	13
Confirmed as uninsured by the Office of Protocol	6	3
Confirmed by the Office of Protocol as U.S. citizens, thus exempt from the requirement to carry liability insurance	<u>3</u>	<u>2</u>
Total	<u>191</u>	<u>100</u>

a/It is uncertain whether these 25 individuals had the required liability insurance when they should have or are currently insured. The Office of Protocol did not attempt to determine if 22 of the 25 individuals were insured because they learned that 16 individuals had terminated employment at the foreign diplomatic missions and left the United States. (However, the insurance companies we contacted confirmed that the insurance coverage for 13 of these individuals had expired prior to the dates these individuals terminated employment.) Also, the Office of Protocol was told by six individuals that they had sold or otherwise disposed of their motor vehicles. However, the Office of Protocol did not ascertain if these individuals were insured when they actually owned the motor vehicles or if they owned and/or operated other vehicles and thus, should be insured. Further, the Office of Protocol was unable to contact the remaining three individuals because they were out of town.

The Office of Protocol has assured us that the six individuals who were not insured have been informed of the requirement to carry liability insurance and that they plan to follow up with these individuals to see that they do take it out. The Office of Protocol has also assured us that they will follow up with the three individuals who could not be reached when they return to determine if they are insured.

We recognize that it may not be practical or feasible for the Office of Protocol to adopt administrative and enforcement methods similar to those used in States where compulsory liability insurance laws exist. Such methods would probably impose additional costs and require additional staff to do the mechanics necessary to follow up on the several thousand individual notifications of insurance it receives and to randomly verify the reported information with the named insurance companies. Moreover, these methods do not ensure full compliance. According to motor vehicle administrators, there is usually about 10 percent who do not comply voluntarily.

In our discussions with representatives of the insurance industry, we learned that it is possible for foreign diplomatic missions to carry a commercial automobile insurance policy which would cover itself and all its members. If at some future time, compliance is found at one or more foreign diplomatic missions to be unsatisfactory, the Department may wish to explore the feasibility of requiring the missions to carry commercial automobile policies.

RECENT TRAFFIC ACCIDENTS INVOLVING
FOREIGN GOVERNMENT REPRESENTATIVES OR
THEIR FAMILY MEMBERS--A FEW UNINSURED
AND AT FAULT

The Office of Protocol becomes aware of foreign government representatives who are uninsured after accidents occur and the victim requests the Department's intervention and assistance in resolving their claims. We were told by the Office of Protocol that the State of Maryland, as part of its compulsory liability insurance program, notifies them when it learns that a foreign government representative does not have the required liability insurance.

(Since June 1, 1979, several accidents have occurred that have involved foreign government representatives or members of their families who were uninsured and at fault.) We note that the Office of Protocol has been asked by the victims to intervene in three accident cases. (In two of these accidents, the foreign government representatives or their family members were at fault and uninsured. Both accidents involved personal injury and/or property damage) and the victims' claims in each case were pending resolution as of March 31, 1981. (In the remaining accident, the foreign government representative was insured, however, the Department's assistance was needed to effect settlement of the victim's claims.)

Further, as of March 31, 1981, we note that (in the District of Columbia there have been 69 other traffic accidents involving foreign diplomatic representatives or their

family members. According to the accident reports submitted to the Office of Protocol by the Washington, D.C., Metropolitan Police Department, these individuals were at fault in 39 of the accidents.

THE REQUIRED MINIMUM LIMITS
OF LIABILITY COVERAGE ARE INADEQUATE

The Diplomatic Relations Act provides broad authority for the Department of State to establish liability insurance requirements for the foreign diplomatic community in the United States. Accordingly, the Department requires foreign government representatives to carry liability insurance that provides no less than the minimum limits of liability specified by law in the jurisdiction where the car is garaged. In its May 22, 1979, diplomatic note to the foreign missions, the Department provided the following table of minimum liability insurance requirements imposed by automobile financial responsibility laws in Washington, D.C., and New York City metropolitan areas:

<u>Jurisdiction</u>	<u>Minimum insurance requirements</u> (note a)
<u>Washington Area</u>	
District of Columbia	10/20/5
Maryland	20/40/5
Virginia	25/50/10
<u>New York City Area</u>	
Connecticut	20/40/5
New Jersey	15/30/5
New York	10/20/5

a/The minimum required coverages for bodily injury and property damage liability are normally expressed as related figures, as in the term "10/20/5." The first two figures refer to bodily injury, in thousands of dollars, and the last to property damage. Broken down further, the first figure represents the maximum amount the insurance company will pay for the injury or death of one person. The second figure is the maximum amount the company will pay in settling bodily injury or death claims arising out of a single accident--regardless of the number of persons involved in the accident. The last figure is the maximum amount the insurance company will pay in settling property damage claims.

Additionally, the Department suggests that every person subject to the Act and every mission should have and maintain

adequate insurance to afford reasonable compensation to accident victims. Accordingly the Department recommends but does not require minimum limits of liability of \$100,000 per person and \$300,000 per incident for bodily injury (including death) and \$50,000 per incident for property damage (including loss of use).

Although it recommends higher limits, the Department cannot ensure they are being obtained. For 25 of the 27 individuals the Office of Protocol found to be insured 19 were found to have liability coverage higher than the minimum limits. Six individuals had the minimum coverage required according to the Office of Protocol.

We believe higher limits should be required. We do not believe the minimum limits established and required by the Department adequately afford reasonable compensation to victims of accidents caused by foreign diplomats.

In its December 23, 1980, news release, the Insurance Information Institute reported that inflation in property value, health care, and auto repair costs, along with rising jury awards in auto injury cases, have significantly increased a motorist's exposure to financial liability if he is found at fault in an auto accident. Although the Institute points out that one-third of all car owners purchase no more auto liability insurance than the minimum required by State law, it notes that many of the financial responsibility requirements were set in the years before double-digit inflation and have not been revised. The Institute concludes that the cost of an accident of any severity would easily exceed minimum requirements, leaving the motorist personally liable for the excess. While the Institute recognizes that some States have more realistic minimums than others, it suggests that persons having a total net worth in excess of the minimums should consider purchasing higher limits to protect himself and his assets.

Whereas American citizens and members of the foreign missions who have limited diplomatic immunity can be held personally liable for damages they cause which exceed the local minimums, those who enjoy complete diplomatic immunity cannot be held personally liable. Consequently, under the local financial responsibility laws we believe the American citizen remains inadequately protected and vulnerable to uncompensated damages resulting from accidents caused by those enjoying diplomatic immunity in the United States.

CONCLUSIONS AND RECOMMENDATION

We do not believe the minimum limits of liability established by the Department adequately afford reasonable compensation to accident victims. We believe the need exists to impose separate limits for the foreign missions that are higher than those imposed by the State and local jurisdictions. We note that the Department suggests, but does not require, significantly higher minimum limits of liability. We believe separate and higher minimum limits are justified because of the inability of accident victims to sue and successfully collect damages from those enjoying diplomatic immunity for damages exceeding the present minimums, and by the rising costs for medical care and motor vehicle repairs. Accordingly we recommend that you establish, for those who enjoy diplomatic immunity, minimum limits of liability that are in excess of the minimum limits prescribed by State and local governments that will adequately afford reasonable compensation to accident victims.

Section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal Agency to submit a written statement on actions taken on our recommendations to the House Committee on Government Operations and the Senate Committee on Governmental Affairs not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We have discussed a draft of this letter with the Office of Protocol. We are providing copies of this letter to the Director, Office of Management and Budget, and to the appropriate congressional committees and other interested parties. We want to acknowledge our appreciation for the Office of Protocol's assistance during this review.

Sincerely,



Frank C. Conahan
Director