

March 16, 2005

RE: TRIA Applicability to United Nations Property

Dear Mr. S:

This is in response to your request for an interpretation of the Terrorism Risk Insurance Act¹ (TRIA) as applied to United Nations property located in the United States.

TRIA applies to an “insured loss”, defined to mean “any loss resulting from an act of terrorism ...”.² TRIA defines “act of terrorism” to mean any act that is certified by the Secretary of the Treasury to be an act of terrorism resulting in damage “within the United States”.³ The “United States” is further defined to mean “the several States ...”.⁴ The property that serves as the headquarters of the United Nations is located in New York City in the State of New York. Under the plain language of TRIA, we believe an act of terrorism occurring on property located within the territorial boundaries of a state meets the test of being “within the United States”.

This result is consistent with general principles of international law regarding the status of diplomatic or consular premises of foreign nations in a receiving or host nation. Generally, private acts committed on those premises are within the territorial jurisdiction of the receiving or host nation.⁵ Such private acts include acts of terrorism as defined in TRIA. This principle of international law generally applies to the diplomatic premises of international organizations as well, including the premises of the United Nations headquarters in New York.⁶

As you note in your letter, other U. S. law further supports the conclusion that the headquarters property of the United Nations is “within the United States”. By Joint Resolution of Congress, the President was authorized to bring into effect the “Agreement between the United Nations and the United States Regarding Headquarters of the United Nations.”⁷ Section 7(b) of the Agreement specifically states that “except as otherwise provided in this agreement or in the General Convention, the federal, state and local law of the United States shall apply within the headquarters district” of the United Nations.⁸ While section 8 of the Agreement prohibits U. S. laws from being inconsistent with any

¹ Pub. L. No. 107-297, 116 Stat. 2322, 15 USC § 6701 (hereafter “TRIA”).

² *Id.* at section 102(5).

³ *Id.* at section 102(1).

⁴ *Id.* at section 102(15).

⁵ RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 466, comment a and Reporter Note 2 (2005).

⁶ *Id.* at § 468, Reporter Note 1.

⁷ Public Law 80-357, 61 U.S. Stat. 756; 80th Cong. 1st Sess., ch. 4821.

⁸ *Id.* at section 7(b), 61 U.S. Stat. 760. On August 4, 1947 the Agreement was executed and became law in the United States. *See* *People v. Parcel*, 2 Misc. 2d 827, 829; 165 N.Y.S. 2d 436, 438 (N.Y. 1956).

regulations of the United Nations that are operative within the headquarters district, none of the United Nations regulations promulgated to date are inconsistent with the application of TRIA to the headquarters district.⁹ Also, we find no provisions in the General Convention that are inconsistent with the application of TRIA to the headquarters district.

Since an act of terrorism occurring on the property of the United Nations known as the headquarters district is subject to the laws of the United States, any “insured loss” arising from that act is eligible for the federal share of compensation under TRIA, provided all other statutory conditions and requirements for payment of the TRIA federal share have been met.

This response deals only with the application of the Act and Treasury’s implementing regulations to the United Nations property comprising the headquarters district in New York. Since you did not provide us with information about the nature and location of any other United Nations property in the United States, our response is limited to the facts and circumstances related in your letter. If there is other United Nations property that you have questions about, please send us the details of such property and we would be happy to provide our views regarding that property as well.

Sincerely yours,

Jeffrey Bragg
Executive Director
Terrorism Risk Insurance Program

⁹ The section 8 provision “was narrowly conceived and has been sparingly exercised, principally to establish ... a social security system and to regulate the practice of professional occupations and the operation of retail establishments in the headquarters district.” *Id.* at Reporter Note 5. *See also* *People v. Cosmatos*, 224 N.Y.S.2d 504 (N.Y. County 1961).