

EMPLOYMENT

Agreement Between the
UNITED STATES OF AMERICA
and POLAND

Effectuated by Exchange of Notes
Signed at Warsaw April 30 and
May 16, 1991



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89-497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)—

“ . . . the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

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POLAND

Employment

*Agreement effected by exchange of notes
Signed at Warsaw April 30 and May 16, 1991;
Entered into force May 16, 1991.*

The American Ambassador to the Polish Minister of Foreign Affairs

EMBASSY OF THE
UNITED STATES OF AMERICA
Warsaw, April 30, 1991

Your Excellency:

I have the honor to propose, with reference to the recent discussions between the Embassy of the United States of America and the Ministry of Foreign Affairs, that members of the family of career members of the United States of America diplomatic missions and consular posts and international organizations in Poland be enabled to engage in gainful employment in Poland, and on the same basis as members of the family of career members of Polish diplomatic missions and consular posts and international organizations in the United States of America are enabled to engage in gainful employment.

In particular I propose that the granting in each case of the appropriate authorization be facilitated in accordance with the provisions of the relevant national legislation and the following procedure set out in the attached Annex.

If the above mentioned text is acceptable to you, I propose that this Note and its Annex, together with your reply, should place on record the understanding between the Government of the Republic of Poland and the Government of the United States of America which will serve as a framework to enable members of the family of members of diplomatic missions or consular posts or international organizations to engage in gainful employment, and will come into operation on the date of your reply.

His Excellency

Mr. Krzysztof Skubiszewski,
Ministry of Foreign Affairs,
of the Republic of Poland

I avail myself of the opportunity to renew to Your Excellency the assurance of my highest consideration.

Thomas W. Simons, Jr.

Enclosure:

Annex

ANNEX

1. Authorization to engage in a gainful occupation

a) The members of the family forming part of the household of a member of a diplomatic mission, consular post or international organization of the sending State will be authorized, on a reciprocal basis, to engage in a gainful occupation in the receiving State in accordance with the provisions of the law of the receiving state.

b) For the purpose of this agreement:

- "a member of a diplomatic mission, consular post or international organization" means any employee including administrative and technical staff of the sending State who is not a national of the receiving State in a diplomatic mission, consular post or mission to an international organization;

- "a member of the family or dependent" means the spouse of a member of a diplomatic mission or consular post and any minor child who forms part of the household of a member of a diplomatic mission or consular post;

- "members of the family or dependents" shall include:

- spouses;

- unmarried dependent children under 21 years of age;

- unmarried dependent children under 23 years of age who are in full-time attendance as students at a post-secondary educational institution; and

- unmarried children who are physically or mentally disabled.

c) Any authorization to engage in a gainful occupation in the receiving State will, in principle, be terminated at the end of the assignment of the member of a diplomatic mission, consular post, or mission to an international organization.

2. Procedures

a) A request for authorization to engage in a gainful occupation will be sent on behalf of the member of the family by the Embassy of the sending State to the Ministry of Foreign Affairs of the receiving state.

b) The procedures followed will be applied in a way which enables the member of the family to engage in a gainful occupation as soon as possible and any requirements relating to work permits and similar formalities will be favorably applied.

3. Civil and administrative privileges and immunities

In the case of members of the family who enjoy immunity from the civil and administrative jurisdiction of the receiving State in accordance with the Vienna Convention on Diplomatic Relations¹ or under any other applicable international instrument such immunity will not apply in respect of any act carried out in the course of the gainful occupation and falling within the civil or administrative law of the receiving State.

4. Criminal Immunity

In the case of members of the family who enjoy immunity from the criminal jurisdiction of the receiving State in accordance with the Vienna Convention on Diplomatic relations or under any other applicable international instrument:

a) the provisions concerning immunity from the criminal jurisdiction of the receiving State will continue to apply in respect of any act carried out in the course of the gainful occupation. However, the sending State will give consideration to waiving the immunity of the member of the family concerned from the criminal jurisdiction of the receiving State.

b) In such circumstances, the sending State will give consideration to waiving the immunity of the member of the family from the execution of a sentence.

5. Income Tax and Social Security Regimes

In accordance with the Vienna Convention on Diplomatic Relations or under any other applicable international instrument members of the family will be subject to the fiscal and social security regimes of the receiving State for all matters connected with their gainful occupation in that State.

6. Duration and Termination

This arrangement will remain in operation for an indefinite period. Either State may terminate it at any time by giving 90 days notice in writing to the other State.

¹ TIAS 7502; 23 UST 3227.

The Polish Minister of Foreign Affairs to the American Ambassador

Warsaw, May 16, 1991

Republic of Poland
Minister of Foreign Affairs

Your Excellency,

I have the honour to acknowledge receipt of your Note of April 30, 1991 concerning the employment of dependents of members of either governments' diplomatic missions appointed to the other country. In reply, I confirm that the contents of your Note is acceptable to the Government of the Republic of Poland and that your Note and the attached Annex, together with this reply, places on record the understanding of our two Governments in this matter. These arrangements will come into operation today and will be known as the Agreement between the United States of America and the Republic of Poland on Employment of Dependents of Staff of Diplomatic Missions.

I avail myself of the opportunity to renew to Your Excellency the assurance of my highest consideration.

Krzysztof Skubiszewski

His Excellency
Mr Thomas W. Simons, Jr.
Ambassador Extraordinary
and Plenipotentiary
of the United States of America

Annex

1. Authorisation to engage in a gainful occupation

- a) The members of the family forming part of the household of a member of a diplomatic mission, consular post or international organization of the sending State will be authorised, on a reciprocal basis, to engage in a gainful occupation in the receiving State in accordance with the provisions of the law of the receiving State.
- b) For the purposes of this agreement:
 - “a member of a diplomatic mission, consular post or international organization” means any employee including administrative and technical staff of the sending State who is not a national of the receiving State in a diplomatic mission, consular post or mission to an international organisation;
 - “a member of the family or dependent” means the spouse of a member of a diplomatic mission or consular post and any minor child who forms part of the household of a member of a diplomatic mission or consular post;

Members of the family or dependents shall include:

 - Spouses;
 - Unmarried dependent children under 21 years of age;
 - Unmarried dependent children under 23 years of age who are in full-time attendance as students at a post-secondary educational institution;
 - Unmarried children who are physically or mentally disabled.
- c) Any authorisation to engage in a gainful occupation in the receiving State will, in principle, be terminated at the end of the assignment of the member of a diplomatic mission consular post, or mission to an international organization.

2. Procedures

- a) A request for authorisation to engage in a gainful occupation will be sent on behalf of the member of the family by the Embassy of the sending State to the Ministry of Foreign Affairs of the receiving State.
- b) The procedures followed will be applied in a way which enables the member of the family to engage in a gainful occupation as soon as pos-

sible and any requirements relating to work permits and similar formalities will be favourably applied.

3. Civil and administrative privileges and immunities

In the case of members of the family who enjoy immunity from the civil and administrative jurisdiction of the receiving State in accordance with the Vienna Convention on Diplomatic Relations or under any other applicable international instrument such immunity will not apply in respect of any act carried out in the course of the gainful occupation and falling within the civil or administrative law of the receiving State.

4. Criminal Immunity

In the case of members of the family who enjoy immunity from the criminal jurisdiction of the receiving State in accordance with the Vienna Convention on Diplomatic relations or under any other applicable international instrument:

- a) the provisions concerning immunity from the criminal jurisdiction of the receiving State will continue to apply in respect of any act carried out in the course of the gainful occupation. However, the sending State will give consideration to waiving the immunity of the member of the family concerned from the criminal jurisdiction of the receiving State.
- b) In such circumstances, the sending State will give consideration to waiving the immunity of the member of the family from the execution of a sentence.

5. Income Tax and social security regimes

In accordance with the Vienna Convention on Diplomatic Relations or under any other applicable international instrument members of the family will be subject to the fiscal and social security regimes of the receiving State for all matters connected with the gainful occupation in that State.

6. Duration and Termination

This arrangement will remain in operation for an indefinite period. Either State may terminate it at any time by giving 90 days notice in writing to the other State.

