

By virtue of the authority vested in me by the Constitution and the statutes, including the Foreign Service Act of 1980 (94 Stat. 2071), as amended [this chapter], and as President of the United States and Commander in Chief of the armed forces of the United States, it is ordered as follows:

1. Executive Order No. 10062 of June 6, 1949, and Executive Order No. 10144 of July 21, 1950, amending that order, are hereby revoked, and the position of United States High Commissioner for Germany, established by that order, is hereby abolished.

2. The Chief of the United States Diplomatic Mission to the Federal Republic of Germany, hereinafter referred to as the Chief of Mission, shall have supreme authority, except as otherwise provided herein, with respect to all responsibilities, duties, and governmental functions of the United States in all Germany. The Chief of Mission shall exercise his authority under the supervision of the Secretary of State and subject to ultimate direction by the President.

3. The United States Military Commander having area responsibility in Germany, hereinafter referred to as the Commander, shall have authority with respect to all military responsibilities, duties, and functions of the United States in all Germany, including the command, security, and stationing of United States forces in Germany, the assertion and exercise of their rights and discharge of their obligations therein, and emergency measures which he may consider essential for their protection or the accomplishment of his mission. The Commander may delegate the authority conferred upon him. If action by the Commander or any representative of the Commander, pursuant to the authority herein conferred, affects the foreign policy of the United States or involves relations or negotiations with non-military German authorities, such action shall be taken only after consultation with and agreement by the Chief of Mission or pursuant to procedures previously agreed to between the Chief of Mission and the Commander or his representative. Either the Chief of Mission or the Commander may raise with the other any question which he believes requires such consultation. If agreement is not reached between them, any differences may be referred to the Department of State and the Department of Defense for resolution.

4. The Chief of Mission and the Commander or his designated representatives shall, to the fullest extent consistent with their respective missions, render assistance and support to each other in carrying out the agreements and policies of the United States.

5. With regard to the custody, care, and execution of sentences and disposition (including pardon, clemency, parole, or release) of war criminals confined or hereafter to be confined in Germany as a result of conviction by military tribunals (A) the Chief of Mission shall share the four-power responsibility in the case of persons convicted by the International Military Tribunal, (B) the Chief of Mission shall exercise responsibility in the case of persons convicted by military tribunals established by the United States Military Governor pursuant to Control Council Law No. 10, and (C) the Commander shall exercise responsibility in the case of persons convicted by other military tribunals established by United States Military Commanders in Germany and elsewhere. The Commanders shall, on request of the Chief of Mission, take necessary measures for carrying into execution any sentences adjudged against such persons in category (B) as to whom the Chief of Mission has responsibility and control. Transfer of custody of persons in categories (B) and (C) to the Federal Republic of Germany as provided in the Convention on the Settlement of Matters Arising Out of the War and Occupation shall terminate the responsibility of the Chief of Mission and the Commander with respect to such persons to the extent that the responsibility of the United States for them is thereupon terminated pursuant to the provisions of the said Convention.

6. If major differences arise over matters affecting the United States Forces in Germany, such differences may be referred to the Department of State and the Department of Defense for resolution.

7. This order shall become effective on the date that the Convention on Relations between the Three Powers and the Federal Republic of Germany and related Conventions, as amended, come into force.

EXECUTIVE ORDER NO. 11970

Ex. Ord. No. 11970, Feb. 5, 1977, 42 F.R. 7919, establishing the Presidential Advisory Board on Ambassadorial Appointments, was revoked by Ex. Ord. No. 12299, Mar. 17, 1981, 46 F.R. 17751.

Term of the Presidential Advisory Board on Ambassadorial Appointments extended until Dec. 31, 1980, see Ex. Ord. No. 12110, Dec. 28, 1978, 44 F.R. 1069, formerly set out as a note under section 14 of the Appendix to Title 5, Government Organization and Employees.

§ 3943. Appointments by the Secretary

The Secretary may appoint the members of the Service (other than the members of the Service who are in the personnel categories specified in section 3942(a) of this title) in accordance with this chapter and such regulations as the Secretary may prescribe.

(Pub. L. 96-465, title I, § 303, Oct. 17, 1980, 94 Stat. 2085.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 96-465, Oct. 17, 1980, 94 Stat. 2071, known as the Foreign Service Act of 1980, which is classified principally to this chapter (§ 3901 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

Statutory Notes and Related Subsidiaries

LATERAL ENTRY INTO THE FOREIGN SERVICE

Pub. L. 114-323, title IV, § 404, Dec. 16, 2016, 130 Stat. 1928, as amended by Pub. L. 118-31, div. F, title LXII, § 6204(a), Dec. 22, 2023, 137 Stat. 972, provided that:

"(a) SENSE OF CONGRESS.—It is the sense of Congress that the Foreign Service [of the United States] should permit mid-career entry into the Foreign Service for qualified individuals who are willing to bring their outstanding talents and experiences to the work of the Foreign Service.

"(b) PILOT PROGRAM.—Not later than 180 days after the date of the enactment of this Act [Dec. 16, 2016], the Secretary [of State] shall establish a 5-year pilot program for lateral entry into the Foreign Service that—

"(1) targets mid-career individuals from the civil service and private sector who have skills and experience that would be extremely valuable to the Foreign Service;

"(2) is in full comportment with current Foreign Service intake procedures, including the requirement to pass the Foreign Service exam;

"(3) offers participants in such pilot program placement in the Foreign Service at a grade level higher than FS-4 if such placement is warranted by the education and qualifying experience of such individuals;

"(4) requires only one directed assignment in a position appropriate to such pilot program participant's grade level;

"(5) includes, as part of the required initial training, a class or module that specifically prepares participants in such pilot program for life in the Foreign Service, including conveying to such participants essential elements of the practical knowledge that is normally acquired during a Foreign Service officer's initial assignments[;]

"(6) includes an annual assessment of the progress of such pilot program by a review board consisting of

Department [of State] officials with appropriate expertise, including employees of the Foreign Service, in order to evaluate such pilot program's success;

“(7) does not include the use of Foreign Service-Limited or other noncareer Foreign Service hiring authorities; and

“(8) includes not fewer than 30 participants for each year of the pilot program.

“(c) ANNUAL REPORTING.—Not later than 1 year after the date of the enactment of this Act and annually thereafter for the duration of the pilot program described in subsection (b), the Secretary shall submit to the appropriate congressional committees [Committee on Foreign Relations of the Senate and Committee on Foreign Affairs of the House of Representatives] a report that describes the following:

“(1) The cumulative number of accepted and unaccepted applicants to such pilot program.

“(2) The cumulative number of pilot program participants placed into each Foreign Service cone.

“(3) The grade level at which each pilot program participant entered the Foreign Service.

“(4) Information about the first assignment to which each pilot program participant was directed.

“(5) The structure and operation of such pilot program, including—

“(A) the operation of such pilot program to date; and

“(B) any observations and lessons learned about such pilot program that the Secretary considers relevant.

“(d) LONGITUDINAL DATA.—The Secretary shall—

“(1) collect and maintain data on the career progression of each pilot program participant for the length of each participant's Foreign Service career; and

“(2) make the data described in paragraph (1) available to the appropriate congressional committees upon request.

“(e) CERTIFICATION.—If the Secretary does not commence the lateral entry program within 180 days after the date of the enactment of this subsection [Dec. 22, 2023], the Secretary shall submit a report to the appropriate congressional committees—

“(1) certifying that progress is being made on implementation of the pilot program and describing such progress, including the date on which applicants will be able to apply;

“(2) estimating the date by which the pilot program will be fully implemented; [and]

“(3) outlining how the Department will use the Lateral Entry Program to fill needed skill sets in key areas such as cyberspace, emerging technologies, economic statecraft, multilateral diplomacy, and data and other sciences.”

PROHIBITION ON CERTAIN EMPLOYMENT AT UNITED STATES DIPLOMATIC AND CONSULAR MISSIONS IN COMMUNIST COUNTRIES

Pub. L. 100-204, title I, §157, Dec. 22, 1987, 101 Stat. 1354, provided that:

“(a) PROHIBITION.—After September 30, 1990, no national of a Communist country may be employed as a foreign national employee in any area of a United States diplomatic or consular facility in any Communist country where classified materials are maintained.

“(b) DEFINITION.—As used in this section, the term ‘Communist country’ means a country listed in section 620(f) of the Foreign Assistance Act of 1961 [22 U.S.C. 2370(f)].

“(c) ADDITIONAL FUNDS FOR HIRING UNITED STATES CITIZENS.—The Congress expresses its willingness to provide additional funds to the Department of State for the expenses of employing United States nationals to replace the individuals dismissed by reason of subsection (a).

“(d) REPORT AND REQUEST FOR FUNDS.—As a part of the Department of State's authorization request for fiscal years 1990 and 1991, the Secretary of State, in con-

sultation with the heads of all relevant agencies, shall submit—

“(1) a report, which shall include—

“(A) a feasibility study of the implementation of this section; and

“(B) an analysis of the impact of the implementation of this section on the budget of the Department of State; and

“(2) a request for funds necessary for the implementation of this section pursuant to the findings and conclusions specified in the report under paragraph (1).

“(e) WAIVER.—The President may waive this section—

“(1) if funds are not specifically authorized and appropriated to carry out this section; or

“(2) the President determines that it is in the national security interest of the United States to continue to employ foreign service nationals.

The President shall notify the appropriate committees of Congress each time he makes the waiver conferred on him by this section.”

SOVIET EMPLOYEES AT UNITED STATES DIPLOMATIC AND CONSULAR MISSIONS IN THE SOVIET UNION

Pub. L. 99-93, title I, §136, Aug. 16, 1985, 99 Stat. 421, provided that:

“(a) LIMITATION.—To the maximum extent practicable, citizens of the Soviet Union shall not be employed as foreign national employees at United States diplomatic or consular missions in the Soviet Union after September 30, 1986.

“(b) REPORT.—Should the President determine that the implementation of subsection (a) poses undue practical or administrative difficulties, he is requested to submit a report to the Congress describing the number and type of Soviet foreign national employees he wishes to retain at or in proximity to United States diplomatic and consular posts in the Soviet Union, the anticipated duration of their continued employment, the reasons for their continued employment, and the risks associated with the retention of these employees.”

Executive Documents

EMPLOYMENT OF SOVIET NATIONALS AT U.S. DIPLOMATIC AND CONSULAR MISSIONS IN SOVIET UNION

Determination of President of the United States, No. 92-4, Oct. 24, 1991, 56 F.R. 56567, provided:

Memorandum for the Secretary of State

By the authority vested in me by the Constitution and laws of the United States, including section 301 of title 3 of the United States Code and section 136 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93) (“the Act”) [set out as a note above], I hereby determine that implementation of section 136(a) of the Act poses undue practical and administrative difficulties. Consistent with this determination, you are authorized to employ Soviet nationals in nonsensitive areas of the New Embassy Compound in Moscow under strict monitoring by cleared Americans. Further, I delegate to you the responsibility vested in me by section 136(b) of the Act to report to the Congress on circumstances relevant to this determination. Such responsibility may be redelegated within the Department of State.

You are authorized and directed to report this determination to the Congress and to publish it in the Federal Register.

GEORGE BUSH.

§ 3944. Chiefs of Mission

(a) **Qualifications; preference for career members; political contributions as factor in appointment; demonstrated competency report**

(1) An individual appointed or assigned to be a chief of mission should possess clearly dem-