

Social Security

International Programs

U.S.-Polish Social Security Agreement

Agreement and administrative arrangement both signed at Warsaw, Poland on April 2, 2008.
Entered into force March 1, 2009.

Polski

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AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF POLAND ON SOCIAL SECURITY

The Republic of Poland and
the United States of America
(hereinafter "the parties"),

Being desirous of regulating the relationship between their two countries in the field of Social Security, have agreed as follows:

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PART I

GENERAL PROVISIONS

Article 1

[Click to read annotation](#)

1. For the purpose of this Agreement:

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1) "national" means,

as regards the Republic of Poland,
a national of the Republic of Poland, and
as regards the United States,
a national of the United States as defined in Section 101, Immigration and Nationality Act, as amended,

2) "laws" means the laws and regulations specified in Article 2 of this Agreement;

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3) "competent authority" means,

as regards the Republic of Poland, the minister responsible for social security, and
as regards the United States, the Commissioner of Social Security;

[Click to read annotation](#)

4) "competent institution" means,

as regards the Republic of Poland, the institution authorized for implementing the laws specified in Article 2 of this Agreement, and
regards the United States, the Social Security Administration;

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5) "liaison institution" means the institution responsible for ensuring the coordination and exchange of information between the institutions of both Parties, participating in the application of this Agreement, as well as informing interested persons about rights and responsibilities arising there from;

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6) "Period of coverage" means a period of payment of contributions or a period of earnings from employment or self-employment, as defined or recognized as a period of coverage by the laws under which such period has been completed, or any similar period insofar as it is recognized by such laws as equivalent to a period of coverage; and

[Click to read annotation](#)

7) "benefit" means any benefit provided for in the laws specified in Article 2 of this Agreement.

[Click to read annotation](#)

2. Any term not defined in this Article shall have the meaning assigned to it in the applicable laws.

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Article 2

Material Scope

1. This Agreement shall apply:

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1) with respect to the Republic of Poland, to the laws concerning the following benefits under social insurance and social insurance for farmers:

- a. old-age, disability and survivors' pensions,
- b. one-time indemnity payments and pensions awarded as a result of work accidents and occupational diseases, and
- c. funeral grants;

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2) with respect to the United States, to the laws governing the Federal old age, survivors and disability insurance program

- a. Title II of the Social Security Act and regulations pertaining thereto, except sections 226, 226A and 228 of that title and regulations pertaining to those sections, and
- b. Chapter 2 and Chapter 21 of the Internal Revenue Code of 1986 and regulations pertaining to those chapters.

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2. Unless otherwise provided in this Agreement, the laws referred to in paragraph 1 of this Article shall not include treaties or other international agreements or supranational legislation on Social Security concluded between either Party and a third State, or laws or regulations promulgated for their specific implementation.

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3. Except as provided in the following sentence, this Agreement shall also apply to legislation which amends or supplements the laws specified in paragraph 1 of this Article. This Agreement shall apply to future legislation of a Party which creates new categories of beneficiaries or new benefits under the laws of that Party unless the competent authority of that Party notifies the competent authority of the other Party in writing within three months of the date of the official publication of the new legislation that no such extension of the Agreement is intended.

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Article 3

Personal Scope

This agreement shall apply to:

[Click to read annotation](#)

1) persons who are or who have been subject to the laws of one or both Parties;

2) other persons with respect to the rights they derive from the persons described in subparagraph 1 of this Article.

Article 4

Equality of Treatment

A person described in Article 3 of this Agreement who resides in the territory of a Party shall receive equal treatment with nationals of the other Party in the application of the laws of the other Party regarding entitlement to or payment of benefits.

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Article 5

Portability of Benefits

1. Unless otherwise provided in this Agreement, any provision of the laws of a Party which restricts entitlement to or payment of benefits solely because the person resides outside or is absent from the territory of that Party shall not be applicable to persons who reside in the territory of the other Party.

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2. The provisions of paragraph 1 of this Article shall not apply in the Republic of Poland to benefits granted under a special procedure or under exceptional circumstances.

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PART II

Provisions Concerning Applicable Laws

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Article 6

Coverage Provisions

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1. Except as otherwise provided in this Article, a person employed within the territory of one of the Parties shall, with respect to that employment, be subject to the laws of only that Party.

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2. Where a person who is normally employed in the territory of one Party by an employer in that territory is sent by that employer to the territory of the other Party for a temporary period, the person shall be subject to the laws of only the first Party as if the person were employed in the territory of the first Party, provided that the period of employment in the territory of the other Party is not expected to exceed five years. For purposes of applying this paragraph in the case of an employee who is sent from the territory of one Party by an employer in that territory to the territory of the other Party, that employer and an affiliated company of the employer shall be considered one and the same, provided that the employment in the territory of the other Party is covered under the laws of the Party from which the person was sent.

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3. Paragraph 2 of this Article shall apply where a person who has been sent by his or her employer from the territory of a Party to the territory of a third State, and who is compulsorily covered under the laws of that Party while employed in the territory of the third State, is subsequently sent by that employer from the territory of the third State to the territory of the other Party.

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4. A self-employed person who resides within the territory of a Party shall be subject to the laws of only that Party.

[Click to read annotation](#)

5. Where the same activity is considered to be self employment under the laws of one Party and employment under the laws of the other Party, that activity shall be subject to the laws of only the first Party if the person resides in the territory of that Party and to the laws of only the other Party in any other case.

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6. Traveling employees of an air transportation company who perform work in the territories of both Parties and who would otherwise be covered under the laws of both Parties shall, with respect to that work, be subject to the laws of only the Party in the territory of which the company has its headquarters. However, if such employees reside in the territory of the other Party, they shall be subject to the laws of only that Party.

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7. The present Agreement does not affect the provisions regarding social security of the Vienna Convention on Diplomatic Relations dated 18 April 1961 and the Vienna Convention on Consular Relations dated 24 April 1963

[Click to read annotation](#)

8. Where a person employed in the government service of one of the Parties is covered under the laws of both Parties in respect of that employment, the following rules shall apply:

[Click to read annotation](#)

1) a person employed in government service for a Party who is sent to work in the territory of the other Party shall, in respect of that employment, be subject only to the laws of the first Party, and

2) except as provided in paragraph 7 and paragraph 8, subparagraph 1 of this Article, a person who resides in the territory of a Party and who is employed therein in government service for the other Party shall, in respect of that employment, be subject only to the laws of the other Party.

9. For the purpose of this Article, "government service" means employment by the government of a Party or by an instrumentality thereof.

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10. The competent authorities of the two Parties, or institutions designated by them, may agree to grant an exception to the provisions of this Article with respect to particular persons or categories of persons, provided that any affected person shall be subject to the laws of one of the Parties.

[Click to read annotation](#)

PART III

PROVISIONS ON BENEFITS

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Article 7

Mutual Provisions

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1. Subject to other provisions of this Agreement, if the laws of one Party make eligibility for benefits conditional on having accrued periods of coverage, the competent institution of that Party shall take into account periods of coverage accumulated under the laws of the other Party, unless such periods of coverage overlap.

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2. Events that affect entitlement, reduction, suspension or benefit amount which occur in the territory of one Party shall be taken into account as if they had taken place in the territory of the other Party.

[Click to read annotation](#)

3. To award a disability benefit, the competent institution of each Party will determine disability, and, as regards the Republic of Poland, the degree of disability, according to the laws administered by that competent institution.

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Article 8

Benefits of the United States

The following provisions shall apply to the United States:

1) Where a person has completed at least six quarters of coverage under United States laws, but does not have sufficient periods of coverage to satisfy the requirements for entitlement to benefits under United States laws, the competent institution of the United States shall take into account, for the purpose of establishing entitlement to benefits under this Article, periods of coverage which are credited under the laws of the Republic of Poland and which do not coincide with periods of coverage already credited under United States laws.

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2) In determining eligibility for benefits under paragraph 1 of this Article, the competent institution of the United States shall credit one quarter of coverage for every 3 months of coverage certified by the competent institution of the Republic of Poland; however, no quarter of coverage shall be credited for any calendar quarter already credited as a quarter of coverage under United States laws. The total number of quarters of coverage to be credited for a year shall not exceed four. However, the competent institution of the United States shall not take into account periods of coverage which occurred prior to the earliest date for which periods of coverage may be credited under its laws.

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3) Where entitlement to a benefit under United States laws is established according to the provisions of paragraph 1 of this Article, the competent institution of the United States shall compute a pro rata Primary Insurance Amount in accordance with United States laws based on:

a. the person's average earnings credited exclusively under United States laws, and

b. the ratio of the duration of the person's periods of coverage completed under United States laws to the duration of a coverage lifetime as determined in accordance with United States laws.

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Benefits payable under United States laws shall be based on the pro rata Primary Insurance Amount.

4) Entitlement to a benefit from the United States which results from paragraph 1 of this Article shall terminate with the acquisition of sufficient periods of coverage under United States laws to establish entitlement to an equal or higher benefit without the need to invoke the provision of paragraph 1 of this Article.

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Article 9

Benefits of the Republic of Poland

[Click to read annotation](#)

The following provisions shall apply to the Republic of Poland:

1) If the laws of the Republic of Poland make eligibility for benefit conditional on periods of coverage in an occupation or particular employment insured under a special system, then periods of coverage accumulated in the same occupation or particular employment in the United States shall be considered by the competent institution of the Republic of Poland in the determination of benefits.

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2) If a period of coverage under the laws of the Republic of Poland is shorter than 12 months and based on that period of coverage there will be no eligibility for benefits, the competent institution of the Republic of Poland shall not be under obligation to award a benefit.

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3) If, according to the laws of the Republic of Poland, the right to benefits arises without consideration of periods of coverage under the laws of the United States, then the competent institution will grant a benefit and determine its amount based only on the periods of coverage accumulated according to the laws of the Republic of Poland, unless the amount of the benefit determined according to subparagraph 4 of this Article will be more favorable.

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4) If, according to the laws of the Republic of Poland, the insured person obtains a right to a benefit after totalization of periods of coverage credited under the laws of both Parties, then the competent institution:

a. shall determine the theoretical amount of the benefit which would be awarded if all periods of coverage were obtained under the laws of the Republic of Poland, and

b. based on the theoretical amount of the benefit, as discussed under letter a of this subparagraph, shall determine the actual amount of the benefit based on the ratio of periods of coverage accumulated under the laws of the Republic of Poland to the sum of all periods of coverage under the laws of both Parties.

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5) When determining the basis for calculating the benefit, the competent institution of the Republic of Poland shall consider exclusively its own periods of coverage.

[Click to read annotation](#)

6) Entitlement to benefits for work accidents and occupational diseases under the laws of the Republic of Poland shall be established only when the insured person was subject to the laws of the Republic of Poland at the time of the work accident or at the time of the onset of the occupational disease.

[Click to read annotation](#)

PART IV

MISCELLANEOUS PROVISIONS

Article 10

Administrative Arrangements

1. The competent authorities of the Parties are authorized to enter into administrative arrangements necessary for the application of this Agreement.
2. The competent authorities of the Parties shall:

- 1) designate liaison institutions;
- 2) communicate to each other information concerning the measures taken for the application of this Agreement; and
- 3) communicate to each other, as soon as possible, information concerning all changes in their respective laws which may affect the application of this Agreement.

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Article 11

Mutual Assistance

The competent authorities, liaison institutions and the competent institutions of the Parties, within the scope of their respective authorities, shall assist each other in implementing this Agreement. This assistance shall be free of charge, subject to exceptions to be agreed upon in an administrative arrangement.

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Article 12

Protection of Personal Data

Unless otherwise required by the national statutes of a Party, information about an individual which is transmitted in accordance with this Agreement to that Party by the other Party shall be used exclusively for purposes of implementing this Agreement. Such information received by a Party shall be governed by the national statutes of that Party for the protection of privacy and confidentiality of personal data.

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Article 13

Exemption from Fees and Authentication of Documents

1. Exemption from registration, filing, consular and other similar fees, as provided by the laws of each of the Parties, shall apply to certificates and documents issued by institutions of the other Party used for application of this Agreement.

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2. Documents and certificates which are presented for purposes of this Agreement shall not require authentication by diplomatic or consular authorities.

[Click to read annotation](#)

3. Copies of documents which are certified as true and exact copies by a competent institution of one Party shall be accepted as true and exact copies by a competent institution of the other Party, without further certification. The competent institution of each Party shall be the final judge of the probative value of the evidence submitted to it from whatever source.

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Article 14

Medical Examinations

Medical examinations of persons in the territory of one of the Parties, which are required under the laws of the other Party, shall be arranged by the competent institution of the first Party, upon the request and at the expense of the requesting institution. The costs of medical examinations shall not be refunded if they are performed for the institutions of both Parties.

[Click to read annotation](#)

Article 15

Languages

1. For the application of this Agreement, the competent authorities, liaison institutions and competent institutions of the Parties may correspond in either Polish or English.

[Click to read annotation](#)

2. An application or a document cannot be dismissed solely because it is written in the language of the other Party.

[Click to read annotation](#)

Article 16

Applications

1. A written application for benefits filed with a competent institution of one Party shall protect the rights of the claimants under the laws of the other Party if the applicant requests that it be considered an application under the laws of the other Party.

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2. If an applicant has filed a written application for benefits with a competent institution of one Party and has not explicitly requested that the application be restricted to benefits under the laws of that Party, the application shall also protect the rights of the claimants under the laws of the other Party if the applicant provides information at the time of filing indicating that the person on whose record benefits are claimed has completed periods of coverage under the laws of the other Party.

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3. The provisions of Part III shall apply only to benefits for which an application is filed on or after the date this Agreement enters into force.

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Article 17

Appeals and Time Limits

1. A written appeal of a determination made by a competent institution of one Party may be validly filed with a competent institution of either Party. The appeal shall be decided according to the procedure and laws of the Party whose determination is being appealed.

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2. Any application, written appeal or other document which, according to the laws of one Party, must have been filed within a specified period of time with the competent institution of that Party, but which is instead filed within the same period with the competent institution of the other Party, shall be considered to have been filed on time.

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Article 18

Transmittal of Applications, Written Appeals, and Other Documents

In any case to which the provisions of Article 17 of this Agreement apply, the competent institution to which the application, written appeal or other document has been submitted shall indicate the date of receipt on the document and transmit it without delay to the competent institution of the other Party.

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Article 19

Currency

Payments under this Agreement may be made in the currency of the Party making the payments, or in any other freely convertible currency.

[Click to read annotation](#)

Article 20

Resolution of Disagreements

Any disagreement regarding the interpretation or application of this Agreement shall be resolved by consultation between the competent authorities.

[Click to read annotation](#)

Article 21

Supplementary Agreements

This Agreement may be amended in the future by supplementary agreements which, from their entry into force, shall be considered an integral part of this Agreement.

[Click to read annotation](#)**PART V****TRANSITIONAL AND FINAL PROVISIONS****Article 22**

Transitional Provisions

1. This Agreement shall not establish any claim to payment of a benefit for any period before the date of entry into force of this Agreement, or to a lump sum death benefit if the person died before the entry into force of this Agreement.

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2. In determining the right to benefits under this Agreement, consideration shall be given to periods of coverage under the laws of either Party and other events which occurred before the entry into force of this Agreement.

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3. In applying paragraph 2 of Article 6 of this Agreement, in the case of persons who were sent to the territory of a Party prior to the date of entry into force of this Agreement, the period of employment referred to in that paragraph shall be considered to begin on that date.

[Click to read annotation](#)**Article 23**

Retention of Benefit Entitlement

1. Determinations concerning entitlement to benefits which were made before the entry into force of this Agreement shall not affect rights arising under it.

[Click to read annotation](#)

2. The application of this Agreement shall not result in any reduction in the amount of a benefit to which entitlement was established prior to its entry into force.

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Article 24

Duration and Termination

1. This Agreement shall remain in force for an unlimited period of time. It may be terminated at any time by either Party giving 12 months' notice in writing to the other Party.

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2. In the event of the termination of this Agreement, entitlement to or payment of benefits acquired by a person shall be maintained, and the competent authorities shall agree on the regulation of any rights then in course of acquisition under its provisions.

[Click to read annotation](#)**Article 25**

Entry into Force

The Parties shall notify each other in writing of the completion of their respective statutory and constitutional procedures required for the entry into force of this Agreement. This Agreement shall enter into force on the first day of the third month following the month during which the last notification occurs.

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IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed the present Agreement.

DONE at Warsaw, Poland on 2nd April 2008 in duplicate in the English and Polish languages, the two texts being equally authentic.

[Click to read annotation](#)

FOR THE UNITED STATES OF AMERICA: Victor Ashe

FOR THE REPUBLIC OF POLAND: Jolanta Fedak

**Administrative Arrangement
For The Implementation Of The Agreement
On Social Security
Between The United States Of America
And The Republic Of Poland**

The Competent Authority of the Republic of Poland and

the Competent Authority of the United States of America,

In conformity with Article 10, paragraph 1 of the Agreement on Social Security between the Republic of Poland and the United States of America signed on

April 2, 2008, hereinafter referred to as the "Agreement", have agreed as follows:

Chapter I

General Provisions

Article 1

Definitions

Where terms which appear in the Agreement are used in this Administrative Arrangement, they shall have the same meaning as they have in the Agreement.

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Article 2

Liaison Institutions

The liaison institutions referred to in Article 10, paragraph 2, subparagraph 1, of the Agreement shall be:

1) for the Republic of Poland:

- a. the Social Insurance Institution - headquarters in Warsaw (Zakład Ubezpieczeń Społecznych - Centrala w Warszawie) with respect to application of the provisions of the law that concern social insurance, except for the social insurance of farmers, and
- b. the Agricultural Social Insurance Fund - headquarters in Warsaw (Kasa Rolniczego Ubezpieczenia Społecznego - Centrala w Warszawie) with respect to the application of the provisions of the law that concern the social insurance of farmers;

2) for the United States - the Social Security Administration (Administracja Zabezpieczenia Społecznego).

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Article 3

Competent Institutions

The competent institutions for the application of the Agreement shall be:

[Click to read annotation](#)

1) for the Republic of Poland:

- a. the Social Insurance Institution (Zakład Ubezpieczeń Społecznych) with respect to the application of the provisions of the law that concern social insurance, except for the social insurance of farmers, and

b. the Agricultural Social Insurance Fund (Kasa Rolniczego Ubezpieczenia Społecznego) with respect to the application of the provisions of the law that concern the social insurance of farmers;

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2) for the United States - the Social Security Administration (Administracja Zabezpieczenia Społecznego).

Article 4

Provisions on Liaison Institutions

1. The competent authority of either Party may designate liaison institutions other than those referred to in Article 2 of this Administrative Arrangement. In such case, it shall be obligated to immediately notify the competent authority of the other Party.

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2. The liaison institutions designated in Article 2 of this Administrative Arrangement shall agree upon the joint procedures and forms necessary for the implementation of the Agreement and this Administrative Arrangement.

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Chapter II

Provisions on Coverage

Article 5

Certificates of Coverage

1. Where the laws of one Party are applicable in accordance with any of the provisions of Part II of the Agreement, the competent institution of the Party, upon request of the employer or self-employed person, shall issue a certificate stating that the employee or self-employed person is subject to those laws and indicating the duration for which the certificate shall be valid. This certificate shall be proof that the employee or self-employed person is exempt from the laws on compulsory coverage of the other Party.

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2. The certificate referred to in paragraph 1 of this Article shall be issued by the competent institutions referred to in Article 3 of this Administrative Arrangement.

[Click to read annotation](#)

3. The competent institution of a Party which issues a certificate referred to in paragraph 1 of this Article shall furnish a copy of the certificate to the competent institution of the other Party as needed by the competent institution of the other Party.

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4. The following shall be designated to apply Article 6, paragraph 10 of the Agreement:

a. for the Republic of Poland - the Social Insurance Institution, headquarters in Warsaw (Zakład Ubezpieczeń Społecznych - Centrala w Warszawie) and

b. for the United States - the Social Security Administration (Administracja Zabezpieczenia Społecznego).

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Chapter III

Provisions on Benefits

Article 6

Processing of Applications

1. Applications for benefits under the Agreement shall be submitted on forms to be agreed upon by the liaison agencies of the two parties.

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2. The competent institution of the Party with which an application for benefits is first filed in accordance with Article 16 of the Agreement shall provide the competent institution of the other Party with such evidence and other information in its possession as may be required to complete action on the claim.

3. The competent institution of a Party which receives an application that was first filed with a competent institution of the other Party shall without delay provide the competent institution of the other Party with such evidence and other available information in its possession as may be required for it to complete action on the claim.

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4. The competent institution of the Party with which an application for benefits has been filed shall verify the information pertaining to the applicant and the applicant's family members. The types of information to be verified shall be agreed upon by the liaison institutions of both Parties.

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Chapter IV

Miscellaneous Provisions

Article 7

Administrative Cooperation

1. In accordance with the procedures and by means of the forms to be agreed upon pursuant to paragraph 2 of Article 4 of this Administrative Arrangement, the competent institution of one Party shall, upon request of the competent institution of the other Party, furnish available information relating to the claim of any specified individual for the purpose of administering the Agreement.

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2. In order to verify the eligibility of beneficiaries who reside in the territory of a Party, the competent institution of that Party shall, in accordance with its laws and national statutes for the protection of privacy and confidentiality of personal data, furnish without delay the competent institution of the other Party with necessary information on any circumstances under which benefits may be disbursed improperly.

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3. The competent authorities, liaison institutions and competent institutions of the Parties may correspond directly with each other and with any person wherever the person may reside whenever it is necessary for the administration of the Agreement.

[Click to read annotation](#)

Article 8

Transmission of Statistical Data

1. The liaison institutions of the Parties shall exchange statistics on the number of certificates issued under Article 5 of this Administrative Arrangement and on the payments made to beneficiaries under the Agreement. These data shall be furnished annually in a form to be agreed upon.

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2. For the purpose of facilitation of the implementation of the Agreement and this Administrative Arrangement, the liaison institutions may agree on measures for the provision and transmission of the electronic exchange of data.

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Article 9

Reimbursement of Expenses

1. Where administrative assistance is requested under Article 11 of the Agreement, expenses other than regular personnel and operating costs of the competent institution providing the assistance shall be reimbursed, except as may be agreed to by the liaison institutions of the Parties.

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2. Upon request, the competent institution of either Party shall furnish without cost to the competent institution of the other Party any medical information and documentation in its possession relevant to the disability of the claimant or beneficiary.

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3. The competent institution of one Party shall reimburse amounts owed under paragraph 1 of this Article or Article 14 of the Agreement upon presentation of a statement of expenses by the competent institution of the other Party.

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Article 10

Payment of Benefits

Benefits shall be paid directly to the beneficiaries, in accordance with the laws of a Party.

[Click to read annotation](#)

Article 11

Entry Into Force

This Administrative Arrangement shall enter into force on the date of entry into force of the Agreement and shall have the same period of validity.

[Click to read annotation](#)

DONE at Warsaw, Poland on 2nd April 2008, in duplicate in the English and Polish languages, the two texts being equally authentic.

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For the Competent Authority of the
United States of America: Victor Ashe

For the Competent Authority of the
Republic of Poland: Jolanta Fedak

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