

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE U.S. DEPARTMENT OF COMMERCE,
UNITED STATES FOREIGN & COMMERCIAL SERVICE [USFCS]
AND
THE AMERICAN FOREIGN SERVICE ASSOCIATION [AFSA]**

The parties to this memorandum, the American Foreign Service Association, herein after referred to as AFSA, and the U.S. Department of Commerce's Foreign Commercial Service, herein referred to as FCS, enter into this agreement for the purpose of establishing procedures for FCS notification to AFSA of overseas post closures and position abolishment and any AFSA response.

1. This memorandum is subject to and governed by Chapter 10, Labor-Management Relations, of the Foreign Service Act of 1980, as amended, and the Collective Bargaining Agreement (CBA) between AFSA and FCS, as amended. This agreement will be modified as necessary by any future amendments to the documents mentioned above, or to rules, regulations or laws impacting this agreement.
2. The attached Standard Operating Procedures (SOP) will govern the procedures for FCS notification to AFSA of overseas post closures and position abolishment and any AFSA response. Changes to the SOP will be negotiated without impact to this memorandum.
3. This memorandum will be reviewed and open for renegotiation during the next Full Term CBA negotiations between the parties.



Director General
U.S. and Foreign Commercial Service

10/26/04

Date



Vice President
AFSA

October 15, 2004

Date

Standard Operating Procedures

1. The Office Responsible for notifying AFSA of any post closures or position abolishment is the Office of Foreign Service Human Resources. In the case where a position is gapped and an officer has been assigned to the position, and no formal NSDD-38 is prepared, the Assignments Officer will notify AFSA when he/she has been formally informed by senior management that a decision to gap a position has been made.
2. Notification will be made in writing via mail or e-mail directly to the AFSA Vice-President and Representative. Notification date receipt is the time and date of opening of certified e-mail, or upon acknowledgement of the AFSA representative by signature and date on the transmittal memo; whichever is earlier.
3. Notification on post closures will be made when OFSHR completes the draft NSDD-38 cable and begins the clearance process. This is after OFSHR receives a formal request to initiate NSDD-38 action from FCS management that an overseas post will be closed.
4. Notification on position abolishment will be made when OFSHR completes the draft NSDD-38 cable and begins clearances.
5. AFSA has seven calendar days to respond to post closure or position abolishment notification. Management will address timely responses to the notification in writing. Management will address late responses to the notification at its discretion.
6. Gapping a Post shall be defined as the decision by FCS Management to leave a position vacant for more than a year, or within a current assignment cycle, but with the intention to fill the position at a future point in time. If management decides either to close a post or leave a post vacant (gapped) after an officer has been assigned to it, the officer would be asked to rebid on available assignments. The Assignment Panel would make reasonable efforts, subject to applicable law, regulations, and the CBA, to assign the officer to an available equivalent position. Among the criteria that may be considered by the panel for determining equivalency are: the grade of the new position; the availability date for the position; and the responsibilities of the position. If the panel is not able to identify an equivalent available position, then the officer would be paneled to another position that meets the needs of the service.

7. AFSA's request to negotiate any issues involving post closures or position abolishment will be done in accordance with this SOP, and the documents outlined in the Memorandum of Understanding, dated October 26, 2004.
 8. Either party may initiate changes to this SOP during mid-term negotiations as outlined in the CBA between the parties.
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