Committee on Ways and Means

Questions and Answers – Mexico Totalization Agreement

What are totalization agreements?

- **Social Security "totalization" agreements permit the United States and another country to coordinate their Social Security programs.** The Social Security Administration (SSA) has totalization agreements in force with 20 countries, including Canada, Australia, Chile, Korea and most of Western Europe.
- **Totalization agreements help American workers and American businesses.**
  1. They eliminate dual Social Security taxes when Americans work overseas for U.S. companies and protect benefits for workers who divide their careers between two countries.
  2. As a result, American workers and their companies save approximately $800 million annually in foreign Social Security taxes.

What is the current status of the signed U.S.-Mexico totalization agreement?

- **A totalization agreement with Mexico has not been approved.** The agreement signed by the Commissioner of Social Security and the Director General of the Mexican Social Security Institute on June 29, 2004 is the first step in an approval process. The State Department and the White House must review the agreement in order to determine whether the agreement should be sent to Congress for approval.
- **Congress has the final say.** Should the President send a proposed totalization agreement with Mexico to Congress for approval, Congress then has 60 days during which either the House or Senate are in session to consider the agreement and to disapprove it if necessary. [1]

Why an agreement with Mexico?

- **Mexico is the U.S.'s second largest trading partner**, and a U.S.-Mexico totalization agreement would be consistent with one of the goals of the North American Free Trade Agreement to strengthen cooperation and friendship. The U.S. has signed totalization agreements with seven of its top ten trading partners. Many of these agreements have been in effect for nearly two decades.
- A U.S.-Mexico totalization agreement would save about 3,000 U.S. workers and their employers about $140 million in Mexican social security taxes over the next 5 years.

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[1] Use of a one-house resolution to override other branches of government (i.e., a legislative veto) was ruled unconstitutional by the Supreme Court in *INS v. Chadha* (1983). Since Congress has never rejected a totalization agreement, the fact that the mechanism for disapproval is unconstitutional has not been an issue. However, unless the law is changed, congressional utilization of the mechanism currently in the Social Security Act could give rise to a judicial challenge. The Subcommittee is currently researching legislative options for change.

Under a U.S.-Mexico agreement, who would receive benefits who doesn't receive them now?

- U.S. and Mexican workers who divide their careers between Mexico and the U.S. and who previously lacked the required 40 quarters of coverage could qualify with as few as 6 quarters of coverage (benefits would be prorated to reflect only credits earned in the U.S.).
- More family members of Mexican workers would become entitled, because totalization agreements waive rules that require non-citizens outside the United States to have lived in the U.S. for at least 5 years as the spouse or child of the worker in order to receive Social Security dependents and survivors benefits.
- According to the SSA, approximately 41,300 U.S. and Mexican citizens would receive a pro-rated "totalized" benefit from the U.S. Social Security system after the first five years of the agreement (this number does not include those newly eligible for family benefits).

How does a U.S.-Mexico totalization agreement affect illegal workers?

- **A U.S.-Mexico totalization agreement would not change current law prohibiting payment of benefits to persons living illegally in the United States**.
- **A U.S.-Mexico totalization agreement would not create a substantial enticement for Mexican citizens to work illegally in the United States.** The recently enacted "Social Security Protection Act of 2004" (P.L. 108-203) strengthened the law to prevent those who only worked illegally from receiving benefits.
- **Most of the unauthorized Mexican immigrants living in the U.S. (estimated to be 5 million) would not become eligible for Social Security benefits under a U.S.-Mexico totalization agreement because:**

    1. Under current law, a person living illegally in the United States may not receive Social Security benefits. A U.S.-Mexico totalization agreement would not change that.
    2. Individuals who only work illegally in the United States will not become eligible for benefits, based on the recently enacted "Social Security Protection Act of 2004" (P.L. 108-203). A U.S.-Mexico totalization agreement would not change that.
    3. A U.S.-Mexico totalization agreement would only help individuals who worked legally in the United States for at least part of their careers and worked roughly two to nine years in the United States. Individuals with less than 1½ years of work in the United States cannot qualify for any Social Security benefit under a totalization agreement, and those with at least 10 years of work could qualify for benefits without a totalization agreement. A study of migration patterns the Social Security actuaries cited indicates that only about ¼ of certain immigrants from Mexico would live in the United States for two to nine years.[2]

[2] Reyes, Belinda I. "Dynamics of Immigration: Return Migration to Western Mexico." Public Policy Institute of California, San Francisco. January 1997. http://www.ppic.org/content/pubs/R_197BRR.pdf.

4. The majority of workers in Mexico are not participating in the Mexican Social Security system and are not earning credits that could be combined with United States earnings for a "totalized" benefit. [3]
5. Some unauthorized Mexican immigrants work in the "informal" economy in the United States, do not pay Social Security taxes, and would not qualify for a "totalized" benefit.
6. Some unauthorized Mexican immigrants may not qualify for benefits at all because they do not work outside the home or are not the spouse or a child of a worker.

How would an agreement affect Social Security's ability to pay benefits?

- Social Security's official scorekeepers estimate a U.S.-Mexico agreement would have a negligible long-term impact on the Social Security Trust Funds. However, they have stated the estimates are "subject to considerable uncertainty." The SSA actuaries determined that even if they underestimated the number of totalized beneficiaries by as much as 25 percent, the long term effect on Social Security's trust funds would remain negligible.
- Five-year costs to the U.S. Social Security system are estimated at $525 million. These costs are for additional benefits to eligible U.S. and Mexican workers and their families, and reduced Social Security tax contributions from foreign companies and their employees.
- The Government Accountability Office (GAO) has raised several concerns about a potential agreement with Mexico including: its highly uncertain costs and the need to improve data for estimating costs, the SSA's process for entering into the agreement, and the need to assess the integrity of Mexico's social security data and ways to mitigate risk.[4]
- These issues would be thoroughly investigated through a public hearing held by the Committee on Ways and Means, Subcommittee on Social Security, should the President send the U.S.-Mexico totalization agreement to Congress for consideration. Only if we allow the vetting process to continue as intended in law will the Congress and the American people be assured whether it is in the best interest of our country to have a U.S.-Mexico totalization agreement.

[3] Government of Mexico, National Commission on the Retirement Savings System (CONSAR). "2002 Informe de Actividades." http://www.consar.gob.mx/social/publicaciones/Informe%20Anual%202002.pdf.
[4] Government Accountability Office. "Social Security: Proposed Totalization Agreement with Mexico Presents Unique Challenges." GAO-03-993. September 2003.