

# 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 21 countries, including Canada, Australia, Japan, and most of Western Europe.
- **Totalization agreements help American workers and American businesses.**
  - 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.
  - 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 United States-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 U.S. State Department and the White House must review the agreement to determine whether it should be sent to Congress for approval.
- **Congress has the final say.** The President sends the proposed totalization agreement to Congress for consideration. The totalization agreement goes into effect automatically unless the U.S. House of Representatives or the U.S. Senate adopts a resolution of disapproval within a period during which at least one House of Congress has been in session on each of 60 days following the date when the President transmits the agreement to Congress.<sup>1</sup>

### Why an agreement with Mexico?

- **Mexico is our second largest trading partner**, and a United States-Mexico totalization agreement would be consistent with one of the goals of the North American Free Trade Agreement to strengthen cooperation and friendship. Including Mexico, the United States has signed totalization agreements with 7 of its top 10 trading partners.
- According to preliminary estimates provided by the SSA actuaries in 2003, a United States-Mexico totalization agreement would save about 3,000 American workers and their employers about \$140 million in Mexican social security taxes over the next 5 years.

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<sup>1</sup> 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.

## **Under a United States-Mexico agreement, who would receive benefits who doesn't receive them now?**

- American and Mexican workers who divide their careers between Mexico and the United States, and who lack the required 40 quarters of coverage could qualify with as few as 6 quarters of coverage (benefits would be pro-rated to reflect only credits earned in the United States).
- 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 United States for at least 5 years as a worker's spouse or child in order to receive Social Security dependents' and survivors' benefits.

## **How does a United States-Mexico totalization agreement affect illegal workers?**

- **A United States-Mexico totalization agreement would not change current law prohibiting payment of benefits to persons living illegally in the United States.**
- **A United States-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 limit non-citizens' ability to qualify for benefits based on unauthorized work. Under the Act, a non-citizen whose Social Security Number (SSN) is issued on January 1, 2004 or later must have work authorization at the time the SSN is assigned, or at any later time, to gain insured status under the Social Security program.
- **Most of the unauthorized Mexican immigrants living in the United States (estimated to be five million) would not become eligible for Social Security benefits under a United States-Mexico totalization agreement because:**
  1. Under current law, a person living illegally in the United States may not receive Social Security benefits. A United States-Mexico totalization agreement would not change that.
  2. Individuals with SSNs issued on January 1, 2004 or later who only work illegally in the United States will not become eligible for benefits, based on the Social Security Protection Act. A United States-Mexico totalization agreement would not change that.
  3. A United States-Mexico totalization agreement would help only workers employed between 1½ and 10 years in the United States. Individuals with less than 1½ years of work in the United States cannot qualify for a worker's Social Security benefit under a totalization agreement; those with at least 10 years of work could qualify for benefits without a totalization agreement.
  4. Because a majority of workers in Mexico do not participate in the Mexican Social Security system, they do not earn credits that could be combined with their earnings in the United States for a "totalized" benefit.<sup>2</sup>
  5. Some unauthorized Mexican immigrants who work in the "informal" economy in the United States and do not pay Social Security taxes would not qualify for a "totalized" benefit.

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<sup>2</sup> 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>.

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?**

- In 2003, the SSA's official scorekeepers made preliminary estimates of the effect on Social Security's finances as follows. These estimates were made prior to the enactment of the Social Security Protection Act, which limited non-citizens' ability to qualify for benefits based on unauthorized work, and is expected to affect these estimates. A current estimate would accompany any totalization agreement sent to Congress.
  - A United States-Mexico agreement would have a negligible long-term impact on the Social Security Trust Funds. The estimates are subject to considerable uncertainty. The SSA actuaries have determined that even if they have 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 would be about \$525 million. These costs are for additional benefits to eligible American and Mexican workers and their families, and reduced Social Security tax contributions from foreign companies and their employees.
  - Approximately 41,300 American and Mexican citizens would receive a pro-rated "totalized" benefit from the United States Social Security system after the first 5 years of the agreement (this number does not include those newly eligible for family benefits).
- 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 as well as ways to mitigate risk.<sup>3</sup>
- These issues would be thoroughly investigated by the Committee on Ways and Means, Subcommittee on Social Security, should the President send the United States-Mexico totalization agreement to Congress for consideration.

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<sup>3</sup> Government Accountability Office. "Social Security: Proposed Totalization Agreement with Mexico Presents Unique Challenges." GAO-03-993. September 2003.