

Social Security 'Totalization' Examining a Lopsided Agreement with Mexico

By Marti Dinerstein

Executive Summary

Since the late 1970s, the United States has entered into a series of bilateral "totalization" agreements that coordinate the U.S. Social Security program with the comparable programs of other countries. To date, 20 such agreements are in force. They have been financially beneficial to U.S. workers and their employers and the associated social security payments to foreign nationals have been reasonable. As such, totalization agreements have been non-controversial. Congress has never voted to disapprove one.

But the proposed totalization agreement with Mexico is profoundly different from prior agreements in four important ways:

1. One-sided. Unlike the 20 existing agreements, a totalization agreement with Mexico would be one-sided. Its beneficial effects to U.S. workers would be miniscule compared to those received by potentially millions of Mexicans. It is expected that the totalization agreement with Mexico would:

- Provide only modest tax savings for American workers and their employers compared to other totalization agreements.
- Entice Mexicans to remain in the United States for the 10 years it takes to vest for U.S. Social Security (versus 24 in Mexico) in order to maximize their retirement income. The United States pays out far more to low-wage workers than they contribute to the system. In contrast, Mexico only pays out what was contributed, plus accrued interest.
- Permit Mexicans to return home and have their spouses and dependents receive U.S. Social Security benefits they would not have been entitled to without a totalization agreement.
- Permit partial Social Security benefits to be paid to those who worked in the United States as little as 18 months (six quarters).
- Eventually compel the United States to pay out billions in retirement benefits to Mexicans for credits they acquired while using fraudulent Social Security numbers prior to obtaining legal status.
- Lure even more Mexicans into the United States illegally in the hopes they would obtain amnesty, thereby making themselves and their families eligible to receive U.S. Social Security benefits once the worker returned to Mexico and reached retirement age.

2. Perversion of original concept. The anticipated totalization agreement with Mexico is a perversion of prior agreements, calling into question the appropriateness of such a pact. The norm in existing bilateral totalization agreements assumes employees of corporations are asked by their employers to transfer to the



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other country for a specified period of time. Employees and employers in both countries have been contributing to their respective social security systems. The dual objectives of existing totalization agreements were to secure tax savings for the employees and employers of both nations by eliminating double taxation and to guarantee an old age pension to those who contributed to both social security systems by “totalizing” the years worked in both countries. Employees legally enter the partner nation with documents verifying they are authorized to work. Virtually all of the existing 20 totalization agreements are with developed nations whose social security retirement benefits are at parity with those in the United States, providing no incentive to stay and vest for U.S. social security.

In contrast, most Mexican workers entered the United States illegally, were not affiliated with a corporation, previously lived in poverty, and paid no social security taxes in Mexico. There is no benefit parity for American workers in Mexico as it takes more than twice as long to vest for Mexican social security (24 years vs. 10 years in United States) and the benefits are far less generous than those in the United States.

3. Most Mexicans here illegally. None of the existing totalization countries accounts for even 1 percent of the U.S. illegal population and jointly comprise only 4 percent of the total number of illegals. In contrast, over half of the Mexicans living in the United States are illegal aliens. The size of the illegal population from Mexico more than doubled in the last decade and now accounts for 69 percent of the U.S. illegal population. To adopt a totalization agreement with Mexico would put the United States in the ludicrous position of offering Social

Security benefits to potentially millions of Mexican workers who showed contempt for our laws by illegally crossing our border and by fraudulently obtaining the Social Security numbers (SSNs) needed to qualify for old age and disability benefits.

	Total Pop. in U.S.	Total Illegal	Percent of Illegal Pop.
Australia	61,000	1,000	-
Austria	-	-	-
Belgium	-	-	-
Canada	821,000	47,000	0.6 %
Chile	81,000	17,000	0.2 %
Finland	-	-	-
France	151,000	7,000	0.1 %
Germany	-	-	-
Greece	166,000	7,000	0.1 %
Ireland	156,000	3,000	-
Italy	473,000	10,000	0.1 %
Luxembourg	-	-	-
Mexico	9,177,000	4,808,000	68.7 %
Netherlands	95,000	3,000	-
Norway	-	-	-
Portugal	202,000	6,000	-
Spain	83,000	7,000	0.1 %
South Korea	864,000	55,000	0.8 %
Sweden	-	-	-
Switzerland	-	-	-
United Kingdom	678,000	7,000	0.1 %
All Totaliz. Countries	13,008,000	4,978,000	
Total Foreign-Born	31,000,000	7,000,000	

Source: “Estimates of the Unauthorized Population Residing in the United States: 1990-2000,” Office of Policy and Planning, U.S. Immigration and Naturalization Service, January 2003.

4. Huge costs. It is extremely difficult to estimate the potential long-term drain of a Mexican totalization agreement on the U.S. Social Security trust fund, but it has the potential to dwarf all the other agreements combined. Serious questions have been raised about the assumptions made by the Social Security Administration (SSA) and the rigor of its analysis. Inexplicably, SSA projected its estimates based on the totalization experience with Canada. The estimated number of Canadians living in the United States is 820,000 (vs. 9.2 million Mexicans). Given the fact that a totalization agreement would cover not just Mexican workers but also their spouses and dependents, it is highly likely that over time, potentially millions of people would receive U.S. Social Security benefits and the cost would be in the billions of dollars.

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In testimony to Congress, the Commissioner of Social Security defined the dual purpose of totalization agreements:

- Eliminate double Social Security taxation of citizens of one country who are sent by their employer to temporarily work in another country.
- Protect the benefits of workers who pay into the social security systems of two countries but do not earn sufficient credits to receive full benefits from one or both countries. Workers are deemed eligible for pro-rated benefits based on the amount of contributions made to the system of each country.¹

Goals not applicable to Mexico. Neither of these stated purposes generally apply when speaking about Mexico. Only a tiny fraction of the 9.2 million Mexicans living in the United States were sent by a Mexican employer. Most workers independently migrate to the United States in search of a better life. Most enter the country illegally and, if their status is “adjusted” (because of an amnesty, marriage to an American citizen, etc.), they may sponsor family members in Mexico to join them.

Few ever paid into the Mexican social security system prior to arriving in the United States. Many lived in poor rural areas where jobs are scarce. They were part of Mexico’s vast “informal” (off-the-books) economy.

In this regard, Mexican workers stand in sharp contrast to those from the 20 existing totalization countries. In those countries—as in the United States—corporations assign their employees to work in another country. Prior to relocation, these employees paid into their home country’s social security system. After working a limited number of years abroad, workers return to their home country and resume paying social security taxes, eventually vesting for benefits based upon their combined work history in both countries. In almost all of the existing totalization agreements, U.S. workers and their employers benefit as much or more than those in the counterpart nation.

The sheer size of the U.S. Mexican population, dominated by illegal aliens, is another mold-breaking aspect of the proposed Mexican totalization agreement. Table 1 (page 2) illustrates the stark difference between Mexico and all of the other totalization countries.² Eight of the countries have so few nationals in the United States that the Department of Homeland Security does not provide a population number for them. Only three countries besides Mexico—Canada, South Korea, and the United Kingdom—have more

than half a million people living in the United States (legally and illegally). But an astonishing 9.2 million Mexican-born people reside in the United States.

Individually, none of the 20 existing totalization countries accounts for even 1 percent of the U.S. illegal population. Together, all 20 combined contribute only 4 percent of the total number of illegals. In contrast, 4.8 million Mexicans live here illegally – 68.7 percent of the total illegal population.³

Easier to qualify in the United States. A stated goal of totalization agreements is to let workers combine the years they have worked in two different countries in order to be eligible for retirement benefits in one or both countries. The retirement benefits paid by each country are pro-rated based on the number of years worked there. But under the proposed totalization agreement, most eligible Mexicans may receive close to 100 percent of their social security income from the United States. The reason is simple: workers vest for Social Security in the United States after working only 10 years (40 quarters), while it takes fully 24 years to vest in the Mexican program.⁴

Stark contrast in benefits. When one finally does vest in the Mexican system, the financial benefits are not remotely similar to those available in the United States. One receives back exactly what was contributed, with accrued interest.⁵

In contrast, the U.S. Social Security system is progressive, with lower-wage earners receiving benefits far in excess of what they contribute. Therefore, any program that encompasses huge numbers of low-wage retired workers from a foreign country would have a deleterious effect on the U.S. Social Security trust fund.

Modest benefits for Americans. There are no official statistics on how many Americans work and pay social security and income taxes in Mexico. SSA estimated that 3,000 current American workers and their employers would benefit from a totalization program.⁶

SSA actuaries estimate tax savings for American workers and their employers to be \$140 million over the first five years, or an average of \$28 million a year. This contrasts with the annual \$800 million tax savings from the existing 20 totalization agreements, a per country average of \$40 million in savings per year.⁷

Since one of the two stated purposes of totalization agreements is to save taxes for U.S. employees and their employers, the Mexican deal is only modestly successful in that regard.

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Cost estimates highly speculative. The Social Security Administration is tasked with negotiating totalization agreements on the U.S. side, in consultation with the State Department. Congressional hearings in 2003 revealed shocking ineptitude by the SSA in analyzing the potential costs of a totalization agreement with Mexico.

The GAO (Government Accountability Office, formerly called the General Accounting Office) acts as the public's watchdog, by providing independent analysis of government programs. At the request of the Chairmen of the House Judiciary and Ways and Means Committees, the GAO undertook an analysis of a then still exploratory totalization agreement with Mexico. The analysis was requested to explain how the agreement might affect the payment of Social Security benefits to potentially millions of illegal Mexican immigrants and their families and what affect that might have on the long-term solvency of the U.S. Social Security trust fund.

As part of its analysis, GAO uncovered troubling lax administration and quality controls, including no written procedures to assess totalization agreements and little or no documentation of the due diligence team's findings in a trip to Mexico. This occurred "despite documented concerns among Mexican government officials and others regarding the integrity of Mexico's records, such as those for birth, death, and marriage, as well as its controls over assigning unique identification numbers to workers for benefit purposes."⁸

Deeply Flawed Assumptions

But the bulk of GAO's report to Congress centered on the deeply flawed assumptions used to calculate the potential costs of a totalization agreement with Mexico. The report several times diplomatically expressed considerable skepticism about using the Canadian experience to project costs for Mexico.

SSA's actuarial cost estimate assumed the initial number of newly eligible Mexican beneficiaries would be equivalent to the 50,000 beneficiaries currently living and receiving U.S. Social Security benefits in Mexico today. Factoring in the Canadian experience, they assumed that number would ultimately grow six-fold to 350,000 over a 45-year period. Based on these assumptions, SSA concluded that the first-year cost of a totalization agreement with Mexico would be \$78 million, rising to \$650 million (in constant 2002 dollars) in 2050.⁹

It is estimated that 821,000 Canadians live in the United States, 47,000 of them illegally. This compares to 9.2 million Mexican residents, of whom more than half—4.8 million—are illegal. Canadians account for 0.6 percent of all illegal aliens in the United States, while Mexicans account for 69 percent.

Further, Canada is a developed nation with generous social security benefits, designed to most benefit low-income workers. Its populace has neither the need nor the incentive to choose U.S. Social Security benefits over those provided by Canada. Its government does not tacitly encourage emigration into the United States and lobby for policies designed to prevent repatriation of its citizens living here illegally.

The SSA did not take into account the millions of unauthorized Mexican workers currently in the United States who could gain legal status through an amnesty. Not only they but their families—who may never have lived in the United States—could be eligible to receive U.S. Social Security benefits after the worker returned to Mexico. Nor did SSA factor in the possibility that the promise of Social Security benefits would lure even more Mexicans to enter the United States illegally.

More migration and longer stays. Even Mexico's National Population Council (CONAPO) is predicting that large-scale Mexican migration to the United States will continue for decades.¹⁰

Tougher U.S. border enforcement throughout the last decade has made it more difficult to cross from Mexico illegally. But the economic situation in Mexico, the ability to get jobs illegally in the United States due to the complete lack of interior enforcement, and the siren song of possible amnesties have served to accelerate the rate at which Mexicans are exiting their own country. The lure of U.S. Social Security benefits will only increase the flow.

And the Mexican government has no incentive to stop it. Indeed, it is in their national interest to increase the number of their most impoverished citizens living in the United States.

Mexico's System Faces Crisis

According to a July 2004 World Bank report, 52 percent of Mexicans live on \$10 a day or less. Included in this number is the 20 percent of the population in "extreme" poverty, who subsist on less than \$1 a day.¹¹

While the Mexican government has tried to raise the standard of living for its most impoverished citizens, its consistent refusal to make necessary

structural changes has crippled these efforts. One example involves their social security system.

Mexico has two different retirement programs, one for public-sector employees and another for workers in the private sector. The first is draining Mexico's treasury and the second covers only about 40 percent of the potential contributors and eventual recipients.

Chronic deficits in public sector plan. Mexico faces chronic deficits in the State Workers' Institute for Social Security and Services (ISSSTE), the pension system that covers most of Mexico's public service workers. It will soon become one of the most expensive items in the Mexico's federal budget. Under this system, government retirees are entitled to 100 percent of their last 12 months of salary upon retirement. Their average retirement age is 56 and average life expectancy is 78. The system covers 2 million of the country's roughly 4 million active public-sector workers while providing benefits for 400,000 retirees. This dependency ration of 5:1 is projected to decline to 2:1 by 2020.

The federal government is required to cover any shortfalls. But, to date, neither Mexico's president nor Congress has had the political will to take on the entrenched public sector bureaucracy. A recent news report said that Mexico's executive branch would submit some sort of reform bill during the legislative session that began September 1, 2004. But opposition parties are already announcing their objections.¹²

Most Mexicans aren't covered. In the late 1990s, Mexico did partially address the specter of social security bankruptcy by changing the system for private sector workers. It previously had a pay-as-you go system, similar to U.S. Social Security, where younger workers finance payments to retirees. Facing serious actuarial deficits, Mexico transformed this more generous "defined-benefit" plan into a "defined-contribution" plan, returning to pensioners only what they and their employers had contributed, with accrued interest.

This bought the government some short-term relief but created a ticking time bomb, as Mexico's private sector retirement system covers only 40 percent of the workforce because government workers, the self-employed, and workers in the informal sector do not have to join.¹³

Rampant tax evasion. The informal sector in Mexico is huge—estimates range from one-third to half of the workforce. Tax evasion is rampant. Those involved pay no income or social security taxes, which means that they will not be entitled to any benefits. Many millions

of poor Mexican workers will have virtually no retirement safety net. This could create social upheaval as well as a serious fiscal crisis.¹⁴

Mexico's Goal: Export Workers

Understandably, the vast majority of Mexicans who migrate to the United States fall into the informal or "off the books" sector of Mexico's economy. They are among Mexico's most impoverished citizens. Most come to the United States because they cannot earn a living wage in Mexico. They work hard but have only a minimal education and few skills. Over half are "undocumented," so they earn even lower wages than otherwise. What little they make they share with their families back home.

Their hard work and sacrifice has been a financial godsend for Mexico.

Remittances help the government. In 2003, Mexican workers living abroad remitted approximately \$13.3 billion back home, a 35 percent increase over 2002. This number accounted for 2 percent of Mexico's gross domestic product.¹⁵

While worker remittances primarily benefit individual families, they are of enormous help to the Mexican government. Remittances of this magnitude are more stable than private capital flows, which fluctuate with the business cycle. In some rural areas, remittances cover a substantial portion of general consumption, such as food, clothing, health care, transportation, education, and housing expenses.¹⁶

These remittances cushion the Mexican government from the kind of political demands for change occurring in other Latin American countries where many of the poor have not shared in the benefits of—and may have suffered from—globalization and trade agreements.

Tidal wave of Mexican immigration. Indeed, the last decade saw an unprecedented number of Mexicans cross the U.S. border. Between 1990 and 2000, their number doubled—from 4.2 million to 9.2 million, or 30 percent of the entire foreign-born population in the United States. Within this number, unauthorized Mexicans grew by more than 100 percent—from 2 million to 4.8 million, or 69 percent of all illegal aliens in the United States.

While perhaps embarrassed that 10 percent of it people have fled Mexico to earn a decent living, President Vicente Fox's administration has embraced this reality. In fact, increasing the number of Mexicans

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working in the United States is among its highest foreign policy objectives.

Totalization as consolation prize. Prior to 9/11, the Mexican government had every expectation that the United States would agree to a comprehensive migration agreement (the “whole enchilada,” in the foreign minister’s words) creating new guestworker programs, exempting Mexico from visa limits, and “regularizing” the immigration status of nearly five million living here illegally.

After 9/11, congressional and public opposition to an illegal-alien amnesty hardened. At the same time, the Department of Homeland Security was focusing on our porous border with Mexico. Of necessity, Mexico lowered its sights and began negotiating a series of more gradual, piecemeal agreements that would achieve some of their goals. High on the list was a social security totalization agreement.¹⁷

But unlike the 20 prior totalization agreements uncontested by the U.S. Congress, this one adds little value to U.S. workers and employers, while having the potential to drain billions of dollars from the Social Security trust fund.

It is critically important that the SSA financial impact analysis reflect reality, as the U.S. Social Security system is in no shape to take on responsibility for millions of new beneficiaries and their families from any foreign nation, including Mexico.

Sorry State of U.S. Social Security

An estimated 155 million workers—96 percent of all American workers—are covered under and pay into U.S. Social Security. But the elderly are increasing as a percentage of the U.S. population, which spells trouble for Social Security. The SSA website boldly articulates the problem: “Unless action is taken soon to strengthen Social Security, in just 15 years we will begin paying more in benefits than we collect in taxes. Without changes, by 2042 the Social Security Trust Fund will be exhausted.”¹⁸

Accounting practices mask problem. Currently, Social Security reports its financial performance on a cash-flow basis, comparing annual revenues to annual costs and reporting a surplus or deficit. Last year’s reported surplus was \$160 billion—but this was not credited to the Social Security trust fund to pay for future entitlements. Instead, it was credited to the general Treasury coffers and served to reduce the reported federal deficit from \$560 billion to \$400 billion.¹⁹

In contrast, the government requires corporate pension funds to report on an accrual basis, which recognizes long-term liabilities as they are incurred—and can be controlled. If the federal government would adopt that standard, the sorry state of U.S. Social Security would become crystal clear.

At the end of 2003, the Social Security system owed retirees and current workers benefits valued at \$14 trillion. But the system’s assets were only \$3.5 trillion. Ominously, these assets include not only the trust fund’s current reserves (\$1.4 trillion), but also the present value of the taxes that current workers will pay for the rest of their working lives (\$2.1 trillion).²⁰

Clearly, the solvency of Social Security is dependent on the government being a more prudent steward in years to come. The debate has started and will continue over how to fix Social Security for future retirees.

But one thing is clear. It would be highly irresponsible to enter into one-sided bilateral totalization agreements that provide meager benefits to U.S. workers and their employers while saddling the U.S. Social Security system with potentially billions of dollars of annual benefit payments.

In this regard, a totalization agreement with Mexico has more potential risks for the United States than an agreement with any other country in the world. Simply put, it is impossible to know how many millions of Mexicans will be living in the United States in the next decade—much less into the next century. The variables are almost infinite.

The Mexican-born population in the United States of 9.2 million dramatically exceeds that of any other country—in fact, it is larger than the next 9 countries of origin combined. The migration of Mexicans into the United States increased substantially between 1990 and 2000 due in part to the deteriorating economic situation in Mexico. It accelerated more as various amnesty proposals surfaced during 2003 and 2004. If an amnesty comes to pass, potentially millions of newly legal workers would sponsor their families for immigration— a geometric increase of new and future workers. Mexico’s National Population Council (CONAPO) predicts that large-scale migration to the United States will continue for decades regardless of Mexico’s economic performance.

Further complicating matters is the uncertainty of exactly how a totalization agreement will affect the millions of Mexicans who worked illegally throughout all or a portion of their time in the United States. Indeed, the issue of illegal presence has dominated the limited amount of public and congressional debate on

the relative merits of a totalization agreement with Mexico. The crux of the issue rests on U.S. Social Security law and how it has been interpreted and administered by the SSA.

SSA Law Inconsistent on Illegals

Social Security was created in 1936 during the Great Depression when millions of people were unable to find work or feed and house their families. The concept was simple: all working Americans and their employers would contribute a portion of their earnings every pay period—and in return, they and their families would receive some base level of financial security when they retired, became disabled, or died leaving dependents. It has come to be regarded as a sacred compact our government made with the American people—not with foreign nationals who break laws to enter the United States and break more to work and stay here.

Social Security's mission and outlook are those of a social service agency. Its emphasis has been to help people get benefits – and give them the benefit of the doubt when eligibility evidence is presented. Because U.S. Social Security law was silent on the question of legal presence prior to this year, SSA adopted lenient administrative procedures to accommodate that unforeseen condition.

SSA makes a distinction between the right to *earn* credits toward Social Security and the right to *receive* Social Security benefits. Illegal immigrants may have earned enough credits to vest but are not eligible to receive benefits in the United States until they gain legal status.

Legal status = clean slate. Social Security permits foreign nationals to work many years illegally with one or more fraudulently obtained Social Security numbers, acquire legal status (e.g. through an

amnesty or marriage to a U.S. citizen), obtain a valid SSN, and then request that his or her prior earnings credits be moved to the new number.

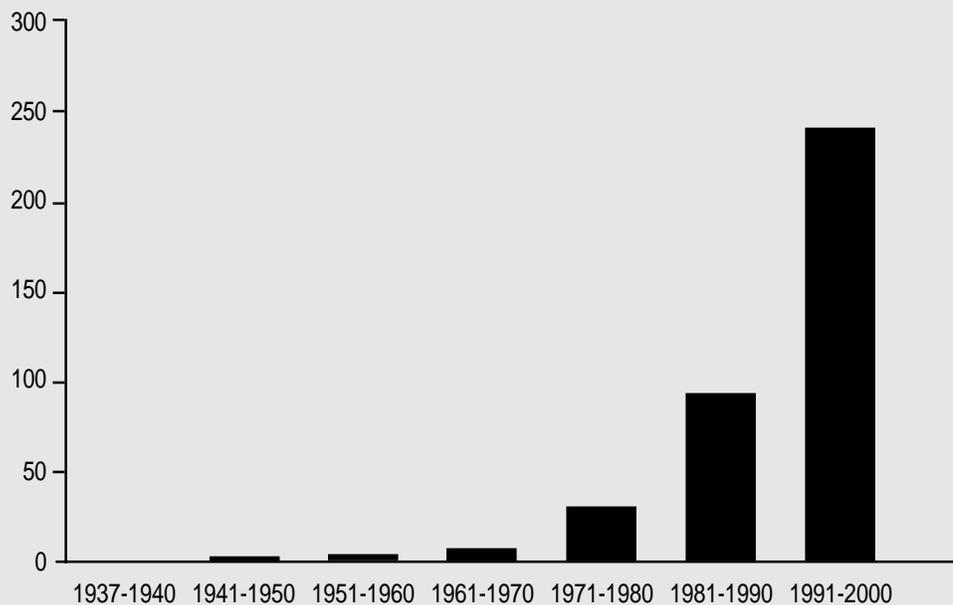
At that point SSA must do painstaking research to extract the earnings records accumulated using fictitious or fraudulently obtained Social Security numbers. Often those records reside in an Earnings Suspense File (ESF) that is used when wages cannot be posted to earners' records because of name and number mismatches. As of July 2002 the ESF contained wage items totaling about \$374 billion. Figure 1 depicts the enormous growth of the Earnings Suspense File in the last two decades, coincident with massive illegal immigration to the United States.

Other times the former illegal worker's earnings credits reside on a SSN record assigned to another individual. This occurs when the illegal worker has committed identity theft by not just stealing a Social Security number but also appropriating the proper owner's name as well.

The illegal's slate is wiped clean and all the years worked under one or more fraudulent numbers and/or identities are counted toward the 10 years it takes to vest for full Social Security benefits based upon one's earning history.²¹

In so doing, the SSA ignores the fact that document fraud and identity theft are felonies that can result in prison sentences if committed by an American citizen.

Figure 1. Total Suspended Wages by Decade, 1937-2000 (in Billions)



Source: Office of the Inspector General, Social Security Administration. Congressional Response Report: "Social Security Administration Benefits Related to Unauthorized Work," March 2003.

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Collecting abroad. In contrast, aliens who never gain legal status are unable to claim Social Security benefits in the United States, even if they can prove they worked for the 40 quarters needed to vest. But until recently they could claim their benefits when they returned to their home country—because they were no longer illegally present in the United States!

Theoretically, something called the “alien nonpayment provision” would limit payment of Social Security to former illegals only to the first six months they were out of the United States. But, there is an exemption—a very big one—called the “Social Insurance Exception.” Social Security’s website describes it in one sentence:

The beneficiary is a citizen of a foreign country which has in effect a social insurance or pension system of general application which pays periodic benefits on account of old age, retirement, or death and under which U.S. citizens who qualify may receive payments at the full rate while outside the foreign country, regardless of the duration of their absence.²²

SSA has criteria to decide which countries should get the exemption. Totalization countries have always been exempted. In addition, there are a number of other countries that also have qualified for the exemption. Mexico is one of them.

Benefits for dependents boost costs. Mexican workers barred from receiving benefits in the United States have been doing so in Mexico for many years. However, their spouses and dependents have not been eligible for benefits unless they lived in the United States with the illegal worker for a minimum of 5 years. Totalization agreements waive that requirement. This would significantly increase the costs of a totalization agreement, as Mexicans have a higher fertility rate than Canadians, the standard used to estimate costs.

Laborers more likely to become disabled. Illegal workers are typically young men, many of whom work in physically demanding jobs, such as agriculture and construction, which leave them vulnerable to bodily injury. The U.S. Social Security program is very generous in granting disability benefits. Depending on age, one need only have worked and contributed to U.S. Social Security for three years (12 quarters) to qualify. The worker’s spouse and children could also be eligible for benefits after his death. There is well-

documented widespread fraud related to the disability program. This additional entitlement is yet another unknown associated with accurately projecting the cost of a totalization agreement with Mexico.

Partial solution from Congress. In 2003, Congress partially ended the absurdity of denying Social Security benefits to illegals while in the United States but permitting it when they return to their home country. It did so by passing legislation (Section 211 of H.R. 743, known as the Social Security Protection Act of 2003) explicitly prohibiting aliens from applying for Social Security benefits from abroad on or after January 1, 2004, based on work they did while in the United States illegally. The new law also prohibits the payment of benefits to the spouses, survivors, or dependents of those illegal workers.

This is an important development, as it establishes for the first time that legal presence in the United States is a requirement to obtain benefits. But constraints on administrative capacity meant only a portion of the problem could be fixed. In commentary related to passage of the bill, the Senate Finance Committee Report said:

This provision does not fully address this issue as individuals who begin working illegally and later obtain legal status could still use their illegal earnings to qualify for Social Security benefits. However, the Commissioner of Social Security has raised concerns about SSA’s ability to administer a more comprehensive approach. The Committee believes the proposal in the bill is the best approach to this issue at this time, but the Committee will continue to consider ways to more fully address this issue in the future.²³

Effect on totalization unclear. Illegality has never been an issue in the 20 nations with whom we already have totalization agreements. None of the countries individually accounts for even 1 percent of illegals in the United States. As shown in Table 2, only 10 nations in the world contribute more than 1 percent each to America’s illegal population. And the second largest source country sends a relatively paltry 2.7 percent, compared to the astounding 68.7 percent attributable to Mexico.²⁴

Even though the Social Security commissioners of both Mexico and the United States signed the totalization agreement in June 2004, the actual text of

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the agreement has not yet been made available. That will happen only after both the Department of State and the President approve it and send it to Congress for review.

Presumably the new law will stand and Social Security totalization benefits will be available only to workers who obtained legal status before returning to Mexico. If that is the case, Mexico will surely put on a full-court press for enactment of one or more of the various amnesty bills that have been introduced in Congress. However, given the lobbying success Mexico has had in recent years, it is not out of the question that a way could be found to nullify or water down the relevant provisions of last year's Social Security legislation.

U.S. Kowtows, Mexico Dictates

Mexico's top foreign policy objective is to maintain and increase the number of its citizens working in the United States. After aggressively pressing this agenda in Washington, Present Fox's administration seemed close to achieving these goals through a comprehensive migration agreement with the United States. It hoped to amnesty its 4.8 million citizens living illegally in the United States, to create new guestworker programs to legally import millions more, and to exempt Mexico from the visa limits imposed on all other nations. Then came the events of 9/11 and the resulting intense concern about our porous borders.

Public and congressional opposition hardened against an illegal alien amnesty. So Mexico modified its message and tactics by abandoning its demands for a single comprehensive agreement and crafted instead a series of piecemeal programs designed to obtain the same objectives. And by relentless lobbying since 9/11, it has achieved new protections for its nationals in the United States and has been exempted from homeland security initiatives applied to other nations.

Bold initiatives and spin. Central to their success has been a sophisticated lobbying and public relations initiative that now covers not just Washington but governors, state legislatures, local officials, media of all varieties, labor unions, churches, businesses wooing Hispanic customers, advocacy groups, etc. Mexican government officials press their case in Washington and rely on their 45 consular

offices—the largest diplomatic presence in the United States—to foster support with these other constituencies.

They have built support for their agenda through constant repetition of two message points that have been very effective, measured by how many times they appear in the media:

- The United States should be concentrating on capturing terrorists, not hassling immigrants who just want a better life for themselves and their families.
- It is just a matter of fairness that Mexico be treated on the same basis as Canada, America's other NAFTA partner.

Post 9/11, in addition to negotiating the lopsided Social Security totalization agreement, Mexico realized the following major successes:

- Mexico won quasi-legal status for its illegals in the United States by gaining widespread acceptance of its "matricula consular," an identity card issued by Mexico that both the FBI and the Department of Homeland Security have said is neither secure nor verifiable. Inexplicably, the U.S. Treasury Department specifically approved banks'

Table 2. Estimated Unauthorized Resident Population for Top-10 Sending Countries in 2000

	Estimated Population	Percent of Total Illegal Population
Mexico	4,800,000	68.7 %
El Salvador	189,000	2.7 %
Guatemala	144,000	2.1 %
Colombia	141,000	2.0 %
Honduras ¹	138,000	2.0 %
China	115,000	1.6 %
Ecuador	108,000	1.5 %
Dominican Republic	91,000	1.3 %
Philippines	85,000	1.2 %
Brazil	77,000	1.1 %
All Other Countries	1,100,000	15.7 %
Total	7,000,000	100.0 %

Source: "Estimates of the Unauthorized Population Residing in the United States: 1990-2000," Office of Policy and Planning, U.S. Immigration and Naturalization Service, January 2003.

¹ Includes 105,000 Hondurans granted Temporary Protected Status in December 1998.

acceptance of the matricula to open accounts, which set the stage for local law enforcement agencies and state motor vehicle bureaus to do the same.²⁵

- Mexico was exempted from a new requirement, initiated by homeland security concerns, that foreigners from certain countries traveling on visas be fingerprinted and photographed before entering the United States. Mexico was upset that it (with 69 percent of the illegal population) would have been subject to the requirement, while Canada (with 0.6 percent of the illegal population) would not have been.²⁶ Subsequent to Mexico's exemption, the program was expanded to include travelers from 27 industrialized nations, including European countries, who do not need visas. In its recent final report, the 9/11 Commission specifically criticized the program's omissions, saying that covered countries only constitute about 12 percent of foreigners who regularly cross U.S. borders. It recommended that both Canadians and Mexicans, who account for the vast majority of foreign travelers but are exempt from what is called the US VISIT program, be required to carry biometric passports to enable identification.²⁷
- Mexico also won exemption from an "expedited removal" plan announced in August 2004 in response to a noticeable growth in OTMs (Other Than Mexicans) crossing our southern border. The United States was concerned that tightened security with biometric checks at other points of entry would result in increased illegal traffic across our extensive land borders. The program's convoluted parameters were clearly developed to appease Mexico. The new rule applies to illegal immigrants apprehended within 100 miles of the Mexican and Canadian borders who have spent up to 14 days within the United States. The announcement specifically stated that the program would not focus on deporting Mexicans and Canadians. Concurrently, the Department of Homeland Security announced that it would grant Mexicans with Border Crossing Cards (multiple-entry documents commonly called "laser visas") the right to stay in the United States for one month, rather than the three days previously permitted. Predictably, Mexican advocates responded that they wanted the visa stays extended to six months, as is the case with Canada.²⁸

Not in U.S. National Interest

The proposed lopsided Social Security totalization pact is just one more example of the U.S. government ceding bits of sovereignty to Mexico. Mexico seems to have a seat at the table determining U.S. immigration policy alongside the White House and the departments of Homeland Security, Justice, and State. Many of the concessions Mexico has been granted endanger our nation's security. The proposed totalization agreement with Mexico imperils the future solvency of the U.S. Social Security system and, therefore, the retirement security of America's seniors.

The number of American workers and employers covered would be miniscule compared to the millions of Mexican workers who might eventually participate. There is no benefit parity for U.S. workers, as it takes more than twice as long to vest for Mexican social security and retirement benefits are far less generous than those offered by the United States. It would result in modest tax savings for America's workers and their employers while creating huge contingent liabilities for the U.S. Social Security trust fund.

The proposed totalization agreement with Mexico should not be finalized. It represents a sell-out of American workers and their families. Such a one-sided pact with its enormous financial risks should never have been negotiated in the first place.

It is unfortunate that the Commissioner of Social Security signed it despite the serious and specific concerns expressed in the GAO report and again in Congressional hearings in 2003. It would have been far better to pull the plug then rather than extend negotiations with Mexico, which now has every reason to believe the agreement will be accepted. We owe Mexico an apology for leading it on. But embarrassment over a diplomatic blunder should not get in the way of extricating ourselves from an agreement that is not in our national interest.

Learning from this experience, the SSA and other relevant agencies should put forth formal criteria to assess future potential totalization pacts. Among the issues to be addressed would be relative parity concerning the benefits granted to both countries' nationals and a rigorous, documented methodology to estimate future financial liabilities.

Concurrent with that analysis, Congress should finish the work begun last year by passing legislation to prohibit the current practice of permitting foreign nationals who work many years illegally with one or more fraudulently obtained Social Security numbers,

obtain legal status, and request that their prior earnings credits be transferred to their new, legitimate SSN.

Last year's bill was limited because the SSA said they could not administratively handle the more comprehensive approach. That may be correct, but it should not mean that the practice be permitted in perpetuity. Individuals who were never legally permitted to work in the United States should not be

able to collect Social Security benefits on the basis of their illegal earnings. As with many of the new mandates for the Department of Homeland Security, the legislation could be passed with a generous timeframe before implementation.

For, if we the people of the United States ignore our own laws, why should the citizens of another nation respect them?

End Notes

¹ Testimony of Jo Anne Barnhart before the House Subcommittee on Immigration, Border Security, and Claims on September 11, 2003. http://www.ssa.gov/legislation/testimony_091103.html

² Population statistics throughout are based on a comprehensive report, prepared by the Office of Policy and Planning in the old U.S. Immigration and Naturalization Service, that provides comparisons among immigrant sending countries from 1990 to 2000. The number of illegal immigrants has increased substantially since publication of the report.

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¹⁶ *Ibid*

¹⁷ <http://www.washingtonpost.com/ac2/wp-dyn/A9342-2002Dec18>

¹⁸ "Decide When To Retire," Social Security Online, <http://www.ssa.gov/retire2/index.htm>

¹⁹ Jackson, Howell, "It's Even Worse Than You Think," *The New York Times*, October 9, 2003.

²⁰ *Ibid*

²¹ Office of the Inspector General, Social Security Administration. Congressional Response Report: "Social Security Administration Benefits Related to Unauthorized Work," March 2003.

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²³ Senate Finance Committee Report to accompany H.R. 743, October 29, 2003.

²⁴ "Estimates of the Unauthorized Population Residing in the United States: 1990-2000," Office of Policy and Planning, U.S. Immigration and Naturalization Service, op. cit., p. 9.

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Backgrounder

Social Security ‘Totalization’ Examining a Lopsided Agreement with Mexico

By Marti Dinerstein

Since the late 1970s, the United States has entered into a series of bilateral “totalization” agreements that coordinate the U.S. Social Security program with the comparable programs of other countries. To date, 20 such agreements are in force. They have been financially beneficial to U.S. workers and their employers and the associated social security payments to foreign nationals have been reasonable. As such, totalization agreements have been non-controversial. Congress has never voted to disapprove one.

But the proposed totalization agreement with Mexico is profoundly different from prior agreements.

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