International Social Security Agreements: The U.S. Experience

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This article discusses the United States' program of international social security agreements. These agreements, commonly known in the United States as "totalization" agreements, provide for limited coordination of the U.S. Old-Age, Survivors, and Disability Insurance program with the comparable programs of other countries. The agreements were authorized for the United States by an amendment to the Social Security Act in 1977, but they have been common among European countries since the period between the two World Wars. Agreements are now in force between the United States and ten other countries, and agreements with two others have been signed. The primary purpose of the agreements is to eliminate dual U.S. and foreign social security coverage and taxation of the same work for expatriate workers and their employers. Agreements also assure adequate continuity of social security protection for individuals who have acquired credits under the system of the United States and the system of another country. The article describes the special characteristics of U.S. agreements and compares them with the agreements of other countries.

The United States recently marked the 15th anniversary of the signing of its first international social security (totalization) agreement. Since the signing of that agreement with Italy in 1973, the United States has concluded agreements with 11 other countries, and 10 of the 12 agreements are currently in force. This article traces the progress of the agreements program and describes some of the special features that distinguish the social security agreements of the United States from those of other countries.

General Features of Agreements

The totalization agreements concluded by the United States are designed to eliminate dual social security coverage and taxation of the same work. They also provide benefit protection to persons with careers divided between the United States and a foreign country.

Dual Coverage

In the absence of an international agreement, a worker may be covered under the social security systems of two countries simultaneously for the same work. In these cases, both countries generally require the employer and employee or self-employed person to pay social security contributions.

The U.S. program, referred to in this article as Old-Age, Survivors, and Disability Insurance (OASDI), covers expatriate workers—those coming to the United States and those going abroad—to a greater extent than the programs of most other countries. This broad U.S. coverage increases the likelihood that U.S. citizens working abroad, as well as aliens working temporarily in the United States, will be subject to dual social security coverage.

The OASDI program covers a U.S. citizen or resident employed abroad by an American employer or by one of its foreign affiliates[1] without regard to the duration of the employee's foreign assignment, and even if the employee has been hired abroad. Similarly, OASDI coverage continues indefinitely for U.S. citizens or residents who are self-employed outside the United States, even if they maintain no business operations in

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[1] U.S. citizens and U.S. resident aliens employed outside the United States by the foreign affiliate of an American employer are covered under the U.S. program only if the American employer has entered into an agreement with the U.S. Treasury Department pursuant to section 3121(1) of the Internal Revenue Code.

this country. Due to the extraterritorial application of U.S. law, many expatriate workers are covered under both the OASDI program and the social security system of the foreign country in which they work. Dual coverage will be the usual case when a U.S. citizen or resident alien works in a foreign country for an American employer for a period of more than a few months.

United States law provides compulsory coverage for service performed in the United States as an employee, regardless of the citizenship or country of residence of the employee or employer, and irrespective of the length of time the employee stays in the United States. Although many foreign countries provide coverage exemptions for nonresident aliens or for employees who have been sent to work within their borders for short periods, the United States does not. Thus, most foreign workers in the United States are covered under the OASDI program.

The cost of paying dual social security contributions can be especially burdensome for the employer because of "tax equalization" arrangements. A firm that sends an employee to work in another country will often guarantee that the assignment will not result in a reduction of the employee's after-tax income. Under these arrangements, employers usually pay both the employer and employee contributions that are owed to the host country's social security system on behalf of their transferred employees. The income tax laws of many countries, however, consider an employer's payment of an employee's share of a social security contribution to be compensation to the employee and, therefore, taxable income to the employee. Under the tax equalization arrangement, the employer will generally pay the employee's additional income tax as well and thereby increase the employee's taxable income even further. The tax burden that results from the employee's foreign social security coverage thus may become substantially greater than the nominal social security tax alone.

The enormous cost involved in paying dual social security taxes adversely affects the competitive position of American companies operating in foreign markets and discourages U.S. firms from expanding their operations abroad. Moreover, this financial drain discourages American companies from assigning their U.S.-based employees to overseas management positions that would give them valuable experience in international trade and business practices.

A worker who is subject to dual coverage often does not receive any additional social security protection for the contributions paid to the host country. Even if the worker resides abroad for several years, the duration of employment may not be sufficient for the individual to become insured for benefits under the social security program of the foreign country. For all practical purposes, the contributions are lost.

Totalization agreements help to solve these problems by eliminating dual coverage and taxation for the same work under the social security systems of both countries. For this reason, American multinational companies have strongly supported the social security agreements program.

Benefit Protection

Another major problem addressed by international social security agreements is the loss of benefit protection incurred by workers when they divide their careers between two or more countries. Americans, for example, who move abroad to work for a foreign employer generally interrupt their OASDI coverage. If the person has not worked long enough to meet the minimum coverage requirements of the OASDI program before departing the United States, neither the worker nor the worker's dependents or survivors will be able to qualify for OASDI benefits. Moreover, if the worker does not work long enough in the foreign country, he or she may not acquire the necessary coverage credits to qualify for benefits from the foreign social security program either. Of course, workers who immigrate to the United States may face the same loss of benefit protection.

Gaps in social security protection can be a particular problem for workers who become disabled. The U.S. disability insurance program, like that of many foreign countries, has a "recency of work" provision. To qualify for benefits under this provision, workers must have substantial covered work immediately before the disability onset.[2] As a result of this provision in U.S. law, disability insurance protection generally is lost within 5 years or less after a worker leaves covered employment. Under some foreign systems, disability insurance protection ceases as soon as a person leaves covered employment or self-employment.

If an individual has not worked long enough, or recently enough, to become entitled to retirement, survivors, or disability benefits from a country, a bilateral agreement can allow that country to determine the individual's entitlement by considering his or her combined coverage credits from both countries. The process of combining periods of coverage to determine benefit eligibility is called "totalization."[3] If a worker qualifies

[2] To qualify for benefits under the U.S. Disability Insurance program, a worker, in addition to meeting other requirements, must have at least 20 quarters of coverage during the 40-quarter period ending with the quarter of disability onset. This requirement does not apply if the worker is blind, and the required duration of recent coverage may be shorter for workers who become disabled before age 31.

[3] International social security agreements are often referred to in the United States as "totalization" agreements. However, the term totalization is properly applied only to agreement provisions for combining periods of coverage acquired under the social security systems of different countries so that benefits may be paid.

for social security benefits based on totalized credits, the amount of the benefit is proportional to the length of time the worker was covered in the country paying the benefit.

Even if a worker has enough coverage credits to qualify for a benefit, the benefit may not be payable if he or she crosses a national frontier. Given certain conditions, most countries will reduce or suspend benefit payments to specified categories of beneficiaries who are absent from or reside outside their territory. International social security agreements generally exempt residents of the agreeing countries from these restrictions on benefit portability.

Agreements of Foreign Countries

Many countries had social security agreements in place long before the United States first considered them. In 1919, Italy and France became the first countries to conclude an agreement providing for the totalization of coverage credits to determine social security eligibility. Since then, virtually all the countries of Western and Central Europe have entered into social security agreements. In addition to bilateral agreements, several regional groupings of these countries have concluded multilateral arrangements. These regional groups include the 12 member states of the European Community, the 21 countries of the Council of Europe, the 5 Nordic States, and 4 German-speaking countries. The countries of Eastern Europe also have a network of bilateral social security agreements.

Although social security agreements originated in Europe, they are now in force between countries around the world. A number of Latin American countries have bilateral social security agreements and 14 of these countries are linked with Spain through the Ibero-American social security convention. Several African countries have bilateral agreements among themselves and with the countries of Western Europe, and various regional groupings in Africa have adopted multilateral social security conventions under the auspices of the International Labor Organization (ILO).

The ILO, founded in 1919, is the oldest of the specialized agencies of the United Nations. Among its primary objectives are the extension of social security measures throughout the world and the protection of the interest of workers when employed in countries other than their own. For many years, the ILO has sought to encourage its member states to conclude international social security agreements among themselves. The ILO has also adopted two conventions[4] that are themselves multilateral agreements coordinating the social security systems of any countries that ratify the conventions. The United States has not ratified either convention.

Development of U.S. Program

Before World War II, the United States entered into a number of bilateral treaties that included provisions to guarantee certain rights of aliens under workers' compensation programs. No U.S. treaty or agreement concluded during the pre-War period addressed the issue of OASDI cash benefits.

In 1948, the United States and Italy concluded a Treaty of Friendship, Commerce, and Navigation (FCN). This treaty guarantees that each country will pay its old-age, survivors, and disability insurance benefits to citizens of the other country who are outside the territory of the paying country under conditions no less favorable than those applied to its own citizens. From 1948 to 1956, the United States concluded FCN treaties containing similar guarantees with seven other countries: the Federal Republic of Germany, Greece, Ireland, Israel, Japan, the Netherlands, and Nicaragua.[5]

In 1951, the United States and Italy signed a treaty supplementing the FCN treaty. Under article VII of the supplementary treaty, the two countries declared their adherence to a policy of permitting coverage credits from both countries to be totalized for purposes of determining benefit eligibility under their respective old-age, survivors, and disability insurance programs. In 1953, the United States Senate gave its consent to ratification of the supplementary treaty, subject to the understanding that the totalization arrangements would "be made by the United States only in conformity with provisions of statute." Since no other U.S. agreement had previously dealt with totalization, the U.S.-Italian supplementary treaty, which became effective in 1961, can be considered the first step in the U.S. international social security agreements program.

The Senate understanding regarding the supplementary treaty was an important factor in determining the legal form of all future U.S. social security agreements. In 1973, U.S. and Italian representatives signed the agreement establishing the totalization arrangements envisaged in the supplementary treaty. Italy concluded this instrument as a formal treaty. However, the United States, in view of the Senate understanding, concluded the accord as an executive agreement to enter into force only after the enactment of authorizing legislation.

The statutory authority to bring the agreement into force was enacted as part of the Social Security Amendments of 1977 and is contained in section 233 of the

[4]Convention No. 48 (the Maintenance of Migrants' Pension Rights Convention), adopted in 1935, established a system of totalization and benefit portability for old-age, survivors, and disability insurance. Convention No. 157 (the Maintenance of Social Security Rights Convention), adopted in 1982, established a system of coordination applicable to all forms of social security (contributory and noncontributory).

[5]The treaty with the Netherlands has been interpreted as applying only to survivor benefits; the treaty with Nicaragua was abrogated, effective May 1986.

Social Security Act.[6] All U.S. social security agreements have been concluded as executive agreements under the authority contained in section 233, although most U.S. agreement partners, like Italy, consider the instruments to be formal treaties.

Section 233 requires the President to submit an agreement to Congress before it may become effective. The agreement may enter into force only after a review period during which either the Senate or House of Representatives has been in session for at least 60 days from the date of submittal.[7]

The United States has signed social security agreements with 12 countries. Among them are some of its most important trading partners. A number of factors have entered into the Social Security Administration's (SSA's) decision whether to negotiate an agreement with a particular country. These factors include the extent to which an agreement would benefit U.S. citizens, residents, and American businesses; if it would further U.S. foreign policy interests, including international economic policy; and if it would impose excessive program or administrative costs. The decision to negotiate is always reached in consultation with the Department of State. If SSA decides that an agreement with a particular county would be beneficial, these same factors may influence the priority given to negotiations with that country, compared with the priority given to negotiations with other potential agreement partners.

U.S. Social Security Agreements

Country	Signed	Entered into force
Italy	May 23, 1973	November 1, 1978
Germany, Federal Republic of	January 7, 1976	December 1, 1979
Switzerland	July 18, 1979	November 1, 1980
Belgium	February 19, 1982	July 1, 1984
Norway	January 13, 1983	July 1, 1984
Canada	March 11, 1981	August 1, 1984
United Kingdom	February 13, 1984	January 1, 1985
Sweden	May 27, 1985	January 1, 1987
Spain	September 30, 1986	April 1, 1988
France	March 2, 1987	July 1, 1988
Netherlands	December 8, 1987	Expected in 1989
Portugal	March 30, 1988	Expected in 1989

Special Characteristics of U.S. Agreements

By the time the United States inaugurated its social security agreements program, most of its major trading partners had an extensive network of these arrangements in place. This large body of international precedent has heavily influenced the form and content of U.S. agreements. In negotiating agreements, SSA has been successful in adapting some of the traditional provisions of other countries' agreements to take account of factors singular to the United States: the Federal structure of its Government, employment practices, and special characteristics of the social security law. Above all, SSA needed to ensure that the agreements conform to the legislation that authorizes them.

Section 233 of the Social Security Act specifically requires agreements to include provisions on dual coverage, totalization, and computation of pro rata benefits. It permits agreements to override the alien nonpayment provisions of U.S. law in certain cases and prohibits them from affecting eligibility for Hospital Insurance under the Medicare program. Section 233 allows additional provisions in agreements if they are not inconsistent with Title II (Federal Old-Age, Survivors, and Disability Insurance) of the Social Security Act. On a number of occasions, U.S. negotiators have been unable to agree to other countries' proposals because of this provision.

Scope

In general, the United States includes fewer programs in its social security agreements than do other countries. Under section 233, the only U.S. program that an agreement can affect is the Federal OASDI program. The agreements of other countries, however, often include their workers' compensation, unemployment insurance, health care, cash sickness and maternity benefits, and family allowances programs.[8] To include such programs in U.S. agreements would be difficult primarily because in this country most of these programs are under the jurisdiction of the individual States.

[6]Authority for social security tax exemptions provided by agreements is contained in sections 1401(d), 3101(c), and 3111(c) of the Internal Revenue Code.

[7]The agreements approval process differs from the approval process for treaties. Under Article II, section 2, of the U.S. Constitution, treaties are submitted only to the Senate; to enter into force, they must receive the consent of two-thirds of the Senators present. Although section 233 includes a provision that either House may block the entry into force of a social security agreement by adopting a resolution of disapproval, the Supreme Court ruled a similar "one House veto" provision in another statute unconstitutional. The oversight provision in section 233, therefore, can probably be considered a "report and wait" provision that allows Congress time to make its views known and, if necessary, to enact legislation (subject to a Presidential veto) to block the agreement's entry into force.

[8]Although U.S. agreements cannot apply to Medicare benefits, work that is exempt from U.S. coverage as a result of an agreement is exempt from the entire Social Security contribution, including the amount that finances Medicare Hospital Insurance. A worker excluded from U.S. coverage by an agreement cannot accrue coverage credit toward either Hospital Insurance or OASDI benefit eligibility. Where a single contribution to a foreign system finances not only the foreign OASDI program but other programs as well (for example, workers' compensation and health care), a foreign coverage exemption that results from an agreement may, depending on the terms of the agreement, exempt workers and employers from coverage and contributions under all these foreign programs.

Coverage

In their provisions for eliminating dual coverage, U.S. agreements are similar to those of other countries. The provisions are not intended to change basic coverage rules of a country's social security law—such as those that define covered earnings or work. The agreements simply exempt workers from coverage under the system of one country or the other when their work would otherwise be covered under both systems.[9]

The aim of all U.S. social security agreements is to maintain the coverage of as many workers as possible under the system of the country where they are likely to have the greatest attachment both while working and after retirement. Each agreement seeks to achieve this goal through a set of objective rules. Unlike the agreements of some countries, those of the United States—with the single exception of the U.S.-Italian agreement—do not allow workers or employers to elect the system that will provide coverage.

Territoriality rule. The coverage rules applicable to employed persons are generally similar in all U.S. agreements. First, they establish a territorial basis of coverage—that is, an employee who would otherwise be covered by two systems remains subject exclusively to the coverage laws of the country in which he or she is working.[10]

Detached-worker rule. The agreements include an exception to the territoriality rule designed to minimize disruptions in the coverage careers of workers whose employers send them on temporary assignment from one country to the other. Under this "detached-worker" exception, a person who is temporarily transferred to work for the same employer in another country remains covered only by the country from which he or she has been sent. A U.S. citizen or resident, for example, who is temporarily transferred by an American employer to work in another country party to the agreement continues to be covered under the OASDI program and is exempt from coverage under the system of the host country. The worker and employer pay contributions only to the U.S. program.

The detached-worker rule can apply whether the American employer transfers an employee to work in a branch office in the foreign country or in one of its foreign affiliates. However, for OASDI coverage to continue when a transferred employee works for a foreign affiliate, the American employer must have entered into an agreement with the U.S. Treasury Department to provide OASDI coverage for U.S. citizens and U.S. resident aliens employed by the foreign affiliate.[11]

Period of detachment. The detached-worker rule in U.S. agreements generally applies to employees whose assignments in the host country are expected to last 5 years or less. Although most other countries' agreements include some form of the detached-worker rule, the time limit on transfers is usually much shorter. The multilateral social security rules adopted by the European Community, for example, permit a coverage exemption from the host country when the worker's assignment is not expected to exceed 12 months. If, for unexpected reasons, the transfer must be prolonged, the exemption may be extended for up to 12 additional months. Some other countries provide a 36-month limit on the period of detachment.

For practical reasons, the United States has successfully sought to include a minimum of at least 5 years in its agreements. While a 1- or 2-year assignment may be typical for a worker assigned between countries on the same continent, overseas transfers to and from the United States are generally for longer durations. A time limit of less than 5 years would fail to provide continuity of coverage for workers assigned to or from the United States.

The U.S. agreement with Italy is the only one that does not use the detached-worker rule. As in other agreements, its basic coverage criterion is the territoriality rule. For expatriate workers, however, nationality is the principal determinant of which country covers the worker. A U.S. citizen—employed or self-employed in Italy, for example—who would be covered by the U.S. OASDI program absent the agreement remains covered only under the U.S. program. An Italian citizen or dual national who would be covered by both countries may elect either U.S. or Italian coverage. This provision is the only exception to the general rule that U.S. agreements assign coverage to one country or the other without offering an option to the employer or employee.

Self-employment rule. United States agreements generally assign the coverage of self-employed persons to their country of residence. For example, a U.S. citizen who lives in Sweden where he or she is self-employed is covered under the Swedish system and is excluded from U.S. coverage.

Under the agreements with Italy and the Federal Republic of Germany, however, the same coverage rules apply to employees and self-employed persons. Thus, a self-employed person, who, absent the U.S.-Italian

[9] Some countries' agreements also extend coverage to expatriate workers otherwise not covered by any national system. United States law includes authority for agreements to cover work otherwise excluded (subject to specific exceptions in sections 210 and 211 of the Social Security Act and sections 1402 and 3121 of the Internal Revenue Code). This authority, however, has been exercised in only a few situations.

[10] Although an agreement may provide that a person will remain subject exclusively to the social security laws of one country or the other, the national legislation of that country determines the actual conditions of coverage.

[11] See section 3121(l) of the Internal Revenue Code.

agreement, would be covered by both countries remains covered only by the U.S. program if the person is an American citizen and by the program of the country of his or her choice if the person is an Italian citizen or dual national. Under the U.S.-West German agreement, a self-employed person's coverage is generally determined by the territoriality rule. However, if a self-employed person travels from one country to the other country to transact business on a temporary basis, the detached-worker rule applies.

Under the recently concluded agreement with France, self-employed persons who transfer their business from one country to the other for 2 years or less remain covered only by the country from which the business was transferred. Workers who are self-employed in both countries during a taxable year, remain covered by the country in which they perform their "principal activity," as defined in the agreement.

All U.S. agreements have coverage provisions for government employees, and some include rules applicable to employees in air and ship transportation. The general effect of these provisions leaves employees' coverage status unchanged.

Special exceptions. Although the goal of these agreements is to assign coverage to the country where the worker has the greatest attachment, unforeseen situations occasionally arise in which the agreement has a clearly inequitable result. Therefore, the agreements allow the authorities in both countries to agree to exceptions to the normal coverage rules. These exceptions have been agreed to in rare instances only. An exception might be granted, for example, if the overseas assignment of a U.S. citizen were unexpectedly extended for a few months beyond the 5-year limit under the detached-worker rule. In this case, the worker could be granted continued OASDI coverage for the additional period.

Certificates of coverage. Workers who are exempt from coverage in a country by virtue of an agreement document their exemption by obtaining a certificate of coverage from the country that will continue their coverage. Employers generally are required to request such certificates on behalf of employees they have transferred abroad; self-employed persons request their own certificate. During 1985-87, SSA issued an annual average of 5,800 certificates for U.S. workers on temporary assignment abroad. In view of the typical duration of a foreign assignment, salary levels of detached workers, and relatively high levels of social security taxation in countries with which the United States has agreements, it is estimated that American employers and their U.S.-based employees are able to save about $165 million annually in foreign social security contributions. By contrast, the 10 existing agreements have made it possible for foreign-based workers and employers to save an estimated $60 million a year in U.S. contributions.

Benefits

In addition to eliminating dual coverage and taxation of the same work, social security agreements help solve the problem of workers who lose benefit rights because they have divided their careers between two countries.

To quality for OASDI benefits, a worker must have enough credit for covered work (quarters of coverage) to meet specified "insured status requirements." For example, a worker who attains age 62 in 1988 must have 37 calendar quarters of coverage under the OASDI program to be fully insured for retired-worker benefits. This number of quarters is scheduled to increase annually until 1991. Workers attaining age 62 in that year or later will need 40 quarters of coverage to be insured. Under an international social security agreement, if a worker has some OASDI coverage but not enough to qualify for benefits, SSA will count periods of coverage that an agency of an agreement country certifies are creditable to the worker for eligibility purposes under the foreign social security program. Similarly, a country party to a U.S. agreement will take into account a worker's coverage under the U.S. program if it is needed to qualify for that country's social security benefits.

Following the practice of most countries, the United States does not try to determine whether the work or other circumstance that gave rise to a period of coverage under a foreign social security system would have resulted in a period of coverage based on the provisions of U.S. law. For example, SSA can take account of foreign coverage for totalization purposes even though the coverage is based on self-employment performed before 1951—a period when self-employment was not covered under the U.S. program.

Unlike some countries, the United States does not allow a person to qualify for benefits by applying several agreements simultaneously. Thus, a person with social security coverage in the United States, West Germany, and Italy can meet the OASDI insured-status requirements based on combined coverage from two countries (the United States and West Germany or the United States and Italy) but not combined coverage from all three countries.

Minimum coverage requirement. Most international social security agreements stipulate that a worker must have a minimum period of coverage under a country's social security program before that country will totalize coverage credits. These provisions are intended to avoid the considerable administrative expense that would result from processing claims for very small benefits based on minimal periods of coverage. In accordance with a requirement of the Social Security Act (section 233(c)(1)(a)), U.S. agreements allow SSA to totalize U.S. and foreign coverage credits only if the worker has at least six quarters of U.S. coverage. The minimum

period of coverage required by other countries is rarely more than 12 months.

Although the U.S. requirement appears more stringent, in practice it generally is not. Under the OASDI program, a worker receives coverage credit based on the amount of the worker's annual earnings. For example, a worker is credited with one quarter of coverage (QC) for every $460 of covered wages received in 1987 and one QC for every $470 of covered wages received in 1988. Therefore, most people who began working in a full-time job in 1987—even at the Federal minimum wage level—received credit for six QC's in 12 months or less.

Computing U.S. totalization benefit amounts. The amount of the OASDI benefit that is payable to a person who qualifies based on totalized periods of coverage is based on the duration of the worker's coverage and the level of earnings under the U.S. OASDI program.[12] The totalization benefit computation method is based on the regular—that is, non-totalization—benefit computation provisions of U.S. law, but it is modified to avoid payment of "windfall" benefits. The OASDI benefit formula is intended to yield benefit amounts that are greater, relative to past earnings levels, for workers with a lifetime of low average earnings. Without some modification to the OASDI benefit formula, the earnings of workers who qualify for totalization benefits would be averaged over an entire working lifetime. As a result, the beneficiary would generally receive heavily weighted benefit amounts intended for low wage earners—even though the worker may have had relatively high earnings while working in the United States.[13]

The first step in computing a totalization benefit amount is to establish a theoretical amount equal to the benefit the worker would have been entitled to if he or she had worked an entire career under the OASDI program at the same relative earnings level as during his or her actual periods of covered work. Establishing a theoretical benefit amount involves four steps:

(1) Divide the worker's actual U.S. earnings in each year by the average wage for all workers covered under the OASDI program in that year. This ratio, expressed as a percentage, shows the worker's earnings level in that year compared with the general working population.

(2) Average the percentage ratios from all years in which the worker has OASDI coverage. The resulting average earnings ratio reflects the worker's relative earnings level during his or her career under the U.S. Social Security program.

(3) Establish a theoretical earnings record for the worker by attributing a fictitious earnings amount to each year that would ordinarily be used to compute the worker's average earnings under the regular U.S. benefit computation method. In general, these are the years after 1950 up to the year in which the worker becomes entitled to old-age or disability benefits or through the year in which the worker dies. The earnings attributed to each such year when establishing the theoretical earnings record is the product obtained by multiplying the worker's average earnings ratio determined in step 2 by the average wage in that year for all covered workers. Earnings are not attributed to years before attainment of age 22, years beginning with the year of attainment of retirement age, or years during a period of disability unless the years are actually credited with earnings.

(4) Determine the theoretical benefit amount by applying regular U.S. benefit computation provisions to the theoretical earnings record.

Once the theoretical benefit has been established, it is prorated to reflect the length of time the worker was actually covered under the OASDI program. The resulting pro rata primary insurance amount (PIA) is the basis for determining the amount of all retirement, survivors, or disability benefits payable on the worker's earnings record.

The pro rata PIA is established by multiplying the theoretical benefit amount by the ratio of the number of the worker's quarters of coverage under the U.S. program to the number of calendar quarters in the worker's "benefit computation years." These years are used to determine a worker's average earnings under the regular U.S. benefit computation method. The number of benefit computation years varies, depending on a worker's year of birth and whether the worker died or became disabled before reaching retirement age. In general, the number of benefit computation years for someone attaining age 62 in 1988 is 32; this number will increase each year until it reaches 35 for workers attaining age 62 in 1991 or later.

Table 1 provides data on the total number of

[12] The computation method for U.S. totalization benefit amounts is detailed in regulations of the Department of Health and Human Services (20 CFR 404.1918). This method is used in all U.S. social security agreements, except with Switzerland, where OASDI benefits are based on periods of coverage and covered earnings under both systems. The agreements with Italy and West Germany originally included a computation method similar to the one in the U.S.-Swiss agreement, but these were revised by supplementary agreements that entered into force on January 1, 1986, and March 1, 1988, respectively. A supplementary agreement, signed June 1, 1988, revises the OASDI benefit computation method under the Swiss agreement. It is expected to enter into force in 1989.

[13] The Social Security Amendments of 1983 include a provision to reduce weighting in the benefit formula for workers whose average earnings are artificially low because most of their work was covered under a pension system other than OASDI. This provision reduced, but did not completely eliminate, the problem of windfall benefits that would arise if totalization benefit amounts were computed on the basis of national law without modifying the computation formula.

beneficiaries and benefit amounts under the U.S. social security agreements in force at the end of July 1988.

Most foreign countries with which the United States has concluded social security agreements do not maintain separate data for benefit payments resulting from international agreements and those paid under their national law. Available information suggests that total benefit payments—that is, the amounts paid under totalization agreements and national law—to U.S. residents is substantial (table 2.)

Other countries computation methods. When a foreign country pays a totalization benefit, the amount generally is based on the length of time the worker was covered under its social security program. Some countries (West Germany, Belgium, and Spain, for example) have been able to simplify the totalization benefit computation because of the method used to compute benefit amounts under their national law. These countries have "straight-line" benefit formulas under which the benefit payment increases by a uniform amount (frequently a fixed percentage of average or final earnings) for each additional year of coverage. Because these countries do not need to be concerned about windfall benefits resulting from a weighted benefit formula, once they have determined that a person is eligible for benefits based on totalized credits, they can simply award a benefit computed under their national law.

Other countries have simplified the process of adjudicating totalization claims even further. Under Swiss law, for example, their citizens have a vested right to retirement benefits after 1 year of contributions; aliens must have 10 years of coverage and must reside in Switzerland to qualify for these benefits. International agreements with Switzerland place nationals of the agreeing country on a par with Swiss citizens. Eligibility for and the amount of Swiss retirement benefits payable under an agreement thus may be based solely on Swiss law and coverage and may involve only minimal coordination with a foreign country's social security agency.

Table 1.—Number of beneficiaries and benefit amounts in current payment status under U.S. totalization agreements, by country, July 1988

Country	Beneficiaries	Monthly benefits
Total	16,350	$1,410,352.30
Belgium	26	3,027.00
Canada	9,713	732,375.80
France	[1]	[1]
Germany, Federal Republic of	3,028	382,639.70
Italy	2,352	170,111.40
Norway	637	60,656.60
Spain	[1]	[1]
Sweden	85	8,419.80
Switzerland	315	33,997.10
United Kingdom[2]	194	19,124.90

[1] Data not available, since agreement became effective so recently.
[2] Incomplete data, since totalization benefit provisions only became effective in January 1988.

Table 2.—Number and amount of benefits paid to U.S. residents under foreign social security programs, by country, 1986

Country	Beneficiaries	Total amount of benefits (in millions)
Germany, Federal Republic of	110,292	$360
Canada	[1]34,499	[2]80
Italy	21,889	69
United Kingdom	33,485	58
Belgium	3,343	8
Switzerland	669	2
Sweden	461	2
Spain	[3]	1

[1] Persons receiving both Old-Age Security and Canada Pension Plan/Quebec Pension Plan benefits are counted twice.
[2] Includes actual Old-Age Security and Canada Pension Plan benefits ($65 million) and estimated Quebec Pension Plan benefits ($15 million).
[3] Data not available.

Under their international agreements, France, Switzerland, Belgium, and the Netherlands have substantially simplified the adjudication of claims for disability benefits. Unlike the U.S. Disability Insurance program, the programs of these countries allow a disabled worker to qualify for benefits with very little prior coverage. In some cases, coverage at the time of disability onset provides insured status. On the other hand, a worker may lose disability insured status when he or she leaves covered work. The benefit amount payable to a disabled worker is either a fixed percentage of final earnings or an amount that is unrelated to the period of coverage. The social security agreements these countries have concluded among themselves generally provide that only the country that covered a worker, or in which the worker resided, at the time of disability onset will pay a benefit. The amount of the benefit, however, is the full amount provided under that country's national law. Provisions of this type simplify the claims process and significantly reduce the administrative costs associated with multiple disability determinations.

Benefit portability. Totalization agreements affect the payment of OASDI benefits to persons outside the United States. Under present law, benefits are generally payable to U.S. citizens regardless of where they live. However, benefits are not paid to an alien who is outside the United States for more than 6 months unless one of several specified exceptions is met. The most common exceptions apply when—

(1) The alien is a citizen of a country that has a social insurance or pension system of general ap-

plicability that provides for the payment of periodic benefits (or the actuarial equivalent) based on old-age, retirement, or death to qualified American citizens who are outside that country,[14]

(2) The alien is a citizen of a country that has no generally applicable social insurance or pension system that pays periodic benefits (or the actuarial equivalent), but the worker on whose earnings record eligibility is based resided in the United States for at least 10 years or has 40 quarters of coverage under the OASDI program, or

(3) Nonpayment of benefits would be contrary to one of the Treaties of Friendship, Commerce, and Navigation that were in effect on August 1, 1956.

In most cases, one of these exceptions applies, rather than the nonpayment rule, and an alien beneficiary is paid indefinitely while outside the United States. Citizens of every country with which the United States has entered into a bilateral social security agreement, or with which an agreement is pending, can meet exception (1) or (3) above. An agreement, however, also permits the United States to pay citizens of third countries— that is, countries other than those that are party to the agreement—as long as they are residing in the other agreement country.[15] The agreement similarly ensures that the other country will pay its benefits to qualified U.S. citizens or third country nationals who reside in the United States.

A bilateral agreement can also affect other, more recent provisions of the Social Security Act that limit payment of benefits to nonresident aliens. Effective January 1, 1985, payments are suspended to an alien entitled to benefits as a dependent or survivor of an insured worker (regardless of the citizenship of the worker) when the alien has been outside the United States for more than 6 months, unless certain requirements are met. To receive benefits, the alien must not only meet one of the exceptions to the general alien nonpayment provision discussed above, but also must have lived in the United States for at least 5 years during which the alien's relationship to the worker was the same as the relationship on which benefit eligibility is based.

A child is deemed to meet the U.S. residence test if the requirement could be met by the child's parents. In addition, an adopted child must have been adopted in the United States and lived in the United States with the worker and received one-half support from the worker in the year before entitlement or death.

None of these restrictions applies, however, to citizens or residents of a country with which the United States has a bilateral social security agreement in force (unless the agreement provides otherwise).

Although U.S. social security agreements may prohibit suspension or reduction of benefits based on residence in an agreement country, the agreements have no effect on provisions of a country's income tax law that impose a tax on benefits paid to residents of another country. Thus, the agreements do not affect the 15-percent income tax that is generally withheld from U.S. benefits paid to nonresident aliens.

Summary

International social security agreements are advantageous both for persons who are working now and for those whose working careers are over. For current workers, the agreements eliminate the dual contributions they might otherwise be paying to the social security systems of both the United States and another country. They also favorably affect the profitability and competitive position of American companies with foreign operations by reducing their cost of doing business.

For persons who have worked both in the United States and abroad, and who are now retired, disabled, or deceased, the agreements often result in the payment of benefits to which the worker or the worker's family members would not otherwise have become entitled. Credit for social security coverage the worker earned in the United States and the other country can be combined, if necessary, to meet eligibility requirements, and partial benefits can be paid by one or both countries.

Because international social security agreements benefit both workers and employers, the agreements program is supported by organized labor and the international business community. Since the first agreement was signed 15 years ago, every Presidential administration has endorsed the program. In view of this support, and the fact that the agreements enhance the image of the United States as a socially progressive member of the international community, it is expected that totalization agreements will be concluded with additional countries in the future.

[14]The United States has exchanged diplomatic notes with several countries either to confirm that their social insurance systems meet this exception or to modify the foreign systems so that they do. These notes have been referred to as "social security agreements" or "agreements on reciprocal payment of benefits." Unlike section 233 agreements, however, they impose no binding obligation on the United States and therefore are not technically international agreements.

[15]The agreements with Belgium, the Federal Republic of Germany, Sweden, and Switzerland exempt residents of the foreign agreement country from the U.S. alien nonpayment provisions only if they are nationals of that country, refugees or stateless persons, or the dependents or survivors of agreement country nationals, refugees or stateless persons.