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AN AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND DENMARK ON SOCIAL SECURITY

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

AN AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND DENMARK ON SOCIAL SECURITY, WITH A PRINCIPAL AGREEMENT AND AN ADMINISTRATIVE ARRANGEMENT, BOTH SIGNED AT COPENHAGEN ON JUNE 13, 2007, PURSUANT TO 42 U.S.C. 433(e)(1)

MARCH 3, 2008.—Referred to the Committee on Ways and Means and ordered to be printed

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To the Congress of the United States:

Pursuant to section 233(e)(1) of the Social Security Act, as amended by the Social Security Amendments of 1977 (Public Law 95–216, 42 U.S.C. 433(e)(1)), I transmit herewith the Agreement Between the United States of America and the Kingdom of Denmark on Social Security, which consists of two separate instruments: a principal agreement and an administrative arrangement. The agreement was signed at Copenhagen on June 13, 2007.

The United States-Denmark Agreement is similar in objective to the social security agreements already in force with Australia, Austria, Belgium, Canada, Chile, Finland, France, Germany, Greece, Ireland, Italy, Japan, Korea, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. Such bilateral agreements provide for limited coordination between the United States and foreign social security systems to eliminate dual social security coverage and taxation, and to help prevent the loss of benefit protection that can occur when workers divide their careers between two countries. The United States-Denmark Agreement contains all provisions mandated by section 233 and other provisions that I deem appropriate to carry out the purposes of section 233, pursuant to section 233(c)(4).

I also transmit for the information of the Congress a report prepared by the Social Security Administration explaining the key points of the Agreement, along with a paragraph-by-paragraph explanation of the provisions of the principal agreement and the related administrative arrangement. Attached to this report is the report required by section 233(e)(1) of the Social Security Act, which describes the effect of the Agreement on income and expenditures of the U.S. Social Security program and the number of individuals affected by the Agreement.

I commend to the Congress the United States-Denmark Social Security Agreement and related documents.

GEORGE W. BUSH.

THE WHITE HOUSE, *February 28, 2008.*

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AGREEMENT ON SOCIAL SECURITY BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF DENMARK

The Government of the United States of America, and

the Government of the Kingdom of Denmark,

Being desirous of regulating the relationship between their two countries in the field of Social Security, have agreed as follows:

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The document is described as an "Agreement" with the understanding that it will enter into force for Denmark as an agreement concluded by the Minister of Social Affairs subject to review by the Danish Parliament, and for the United States as an executive agreement under authority of Section 233 of the Social Security Act. Upon entry into force, the Agreement will have the effect of law in both countries and will be binding on both countries.

PART I
General Provisions

Article 1
Definitions

1. For the purpose of this Agreement:

(a) "territory" means,

as regards the United States, the States thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands, and

as regards the Kingdom of Denmark, its national territory, with the exception of Greenland and the Faroe Islands;

Article 1 defines key terms used in the Agreement.

Article 1.1(a) defines the territory of the United States and the Kingdom of Denmark for purposes of applying the Agreement.

The definition of United States "territory" is identical to the definition of the United States in section 210(i) of the Social Security Act with the addition of the Northern Mariana Islands (NMI), to which the U.S. Social Security program also applies in accordance with the covenant establishing the NMI Commonwealth in political union with the United States.

With respect to the Kingdom of Denmark, "territory" means Danish national territory except for Greenland and the Faroe Islands.

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(b) "national" means,	
as regards the United States, a national of the United States as defined in Section 101, Immigration and Nationality Act, as amended, and	Under section 101(a)(22) of the Immigration and Nationality Act, "the term national of the United States means (A) a citizen of the United States, or (B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States." Those in category (B) include natives of American Samoa.
as regards the Kingdom of Denmark, a person with Danish citizenship;	A Danish national means any person who is accorded nationality by Denmark.
(c) "laws" means the laws and regulations specified in Article 2 of this Agreement;	The term "laws," as used in the Agreement, refers to the social security laws and regulations of each country as set forth in Article 2.
(d) "competent authority" means,	"Competent authority," as used throughout this Agreement, refers to the Government official in each country with ultimate responsibility for administering the social security program, including the provisions of the Agreement.
as regards the United States, the Commissioner of Social Security, and	
as regards the Kingdom of Denmark, the Minister of Social Affairs;	
(e) "agency" means,	"Agency," as used in the Agreement, refers to the administrative body in each country responsible for taking and processing claims and making coverage determinations under each country's social security laws.
as regards the United States, the Social Security Administration, and	The Social Security Administration (SSA) is the agency for the United States. However, the U.S. Internal Revenue Service's responsibility for determining social security tax liability in light of SSA coverage determinations under the Agreement is not affected.
as regards the Kingdom of Denmark, an institution responsible for application of Danish laws;	In Denmark, several central government ministries are responsible for general supervision of the various programs. The Ministry of Social Affairs provides general supervision for the National Pension Fund, the

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	Ministry of Labour oversees the Labour Market Supplementary Pension (ATP) program, and the Danish Labour Market Supplementary Pension Scheme manages the Special Pension Savings Scheme.
(f) "period of coverage" means a period of payment of contributions or a period of earnings from employment or self-employment, as defined, credited or recognized as a period of coverage by the laws under which such period has been completed, or any similar period insofar as it is recognized by such laws as equivalent to a period of coverage;	The term "period of coverage" means any period which is credited under the social security laws of either country for purposes of determining benefit eligibility, including periods of covered employment and self-employment.
(g) "benefit" means any benefit provided for in the laws specified in Article 2 of this Agreement;	"Benefit" refers to old-age, survivors, and disability benefits provided under the social security laws of either country. With respect to the United States, the term also includes the lump-sum death payment under section 202(i) of the Social Security Act, but excludes special age-72 payments provided for certain uninsured persons under section 228 of the Social Security Act.
(h) "residence" means in relation to the Kingdom of Denmark, ordinary residence in Denmark which is lawfully established;	The Danish Social Pension program determines coverage and benefit eligibility based on residence in Denmark. When applicable to Denmark, the term "residence," as used in this Agreement, will include only periods of lawful residence in Denmark. A person is considered a resident in Denmark after he or she has lived in Denmark for 6 months.
(i) "refugee" shall have the meaning assigned to it in Article 1 of the Convention on the Status of Refugees, dated July 28, 1951, and in the Protocol to the Convention dated January 31, 1967;	The Convention relating to the Status of Refugees in conjunction with the 1967 Protocol thereto defines as a refugee any person who "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it."

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(j) "stateless person" shall have the meaning assigned to it in Article 1 of the Convention on the Status of Stateless Persons, dated September 28, 1954;

(k) "self–employed person" means in relation to the Kingdom of Denmark, any person who is entitled to benefits in pursuance of the Act on Daily Cash Benefits in the Event of Sickness and the regulations pertaining thereto on the basis of earned income other than wages or salary.

2. Any term not defined in this Article shall have the meaning assigned to it in the applicable laws.

Article 2

Scope

1. For the purpose of this Agreement, the applicable laws are:

(a) as regards the United States, the laws governing the Federal old-age, survivors, and disability insurance program:

(i) Title II of the Social Security Act and regulations pertaining thereto, except sections 226, 226A and 228 of that title and regulations pertaining to those sections,

(ii) Chapters 2 and 21 of the Internal Revenue Code of 1986 and regulations pertaining to those chapters;

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The Convention relating to the Status of Stateless Persons defines a stateless person as "a person who is not considered as a national by any State under the operation of its laws."

Because Danish social security laws do not define the term "self-employed person", a definition applicable only to Denmark has been included in Article 1.

Each country will assign to any undefined terms used in the Agreement the same meaning as they are given under its social security laws.

For the United States, the Agreement applies to Title II of the U.S. Social Security Act and the corresponding tax laws (the Federal Insurance Contributions Act and the Self-Employment Contributions Act of 1954) and any regulations pertaining to those laws. The Agreement does not apply to Medicare provisions (sections 226 and 226A of the Social Security Act) or provisions for special payments to uninsured individuals age 72 or over under section 228 of the Social Security Act. Persons to whom the Agreement applies who qualify independently for Medicare hospital insurance or age-72 payments will be entitled to receive such benefits.

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(b) as regards the Kingdom of Denmark:

(i) the Social Pensions Act and the regulations made thereunder;

(ii) the Act on the highest, the intermediate, the increased ordinary and the ordinary anticipatory pension; and

(iii) the Labour Market Supplementary Pension (ATP) Act and the regulations made thereunder.

2. Unless otherwise provided in this Agreement, the laws referred to in paragraph 1 of this Article shall not include treaties or other international agreements or supranational legislation on Social Security that may be concluded between one Contracting State and a third State, or laws or regulations promulgated for their specific implementation.

3. Except as provided in the following sentence, this Agreement shall also apply to legislation which amends or supplements the laws specified in paragraph 1. This Agreement shall apply to future legislation of a Contracting State which creates new categories of beneficiaries or new benefits under the laws of that Contracting State unless the Competent Authority of that Contracting State notifies the Competent Authority of the other Contracting State in writing within three months of the date of the official publication of the new legislation that no such extension of the Agreement is intended.

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The Danish social security system consists of two pillars: the Social Pension and the Labour Market Supplementary Pension (also known by the Danish acronym "ATP"). The Danish anticipatory pension, a Social Pension benefit which replaced disability and survivors benefits (see annotation to Article 8), underwent major reform in 1998. The new rules appear in the Social Pensions Act and the old rules were placed in a new Act, the Act on the highest, intermediate, the increased ordinary and the ordinary anticipatory pension. Applications for anticipatory pension benefits can no longer be taken under the old Act, although those currently receiving anticipatory pension benefits in accordance with the old Act may continue under the old rules. The Agreement will apply to Danish anticipatory pension benefits under both the new and old Acts.

The laws to which the Agreement applies do not include treaties or other international agreements on social security or laws to implement them—for example, either country's social security agreements with third countries or the European Union or other multilateral agreements. The purpose of this provision is to ensure that in cases where a person has periods of coverage in the United States and Denmark and periods of coverage in a third country with which the United States or Denmark has a social security agreement, neither the United States nor Denmark will be obligated, under this Agreement, to combine periods from all three countries to determine entitlement to its benefits (see Part III).

Article 2.3 makes clear that the Agreement will automatically apply to any future U.S. or Danish legislation which creates new categories of beneficiaries or new benefits unless the country enacting the legislation excludes it from the scope of the Agreement by giving written notice to the other country within 3 months of the legislation's official publication.

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Article 3
Persons Covered

Unless otherwise provided in this Agreement it shall apply to:

(a) nationals of the Contracting States,
(b) refugees,
(c) stateless persons,
(d) other persons with respect to the rights they derive from the foregoing, and
(e) nationals of a State other than a Contracting State who are not included in (d).

Article 3 specifies four categories of persons to whom the Agreement applies: (1) U.S. or Danish nationals, (2) refugees and stateless persons, (3) persons, regardless of nationality, who derive rights through any of the above (such as family members and survivors), and (4) nationals of other countries. See Article 1.1(b), 1.1(i), and 1.1(j) for definitions of "national", "refugee" and "stateless person".

Article 4
Equality of Treatment

Unless otherwise provided in this Agreement, a person designated in Article 3 (a), (b), (c) or (d) who resides in the territory of a Contracting State shall, in application of the laws of that Contracting State regarding entitlement to or payment of benefits, receive equal treatment with nationals of that Contracting State.

Article 4 provides that persons to whom the Agreement applies who reside in the United States or Denmark will be accorded the same treatment regarding benefit rights under that country's social security laws as that country accords its own nationals. This provision is intended to eliminate discrimination that is based strictly on a person's nationality. It would not affect restrictions that a country imposes on benefit eligibility or payment because the person is not lawfully present in that country or was not authorized to work in that country. The provision also does not affect the coverage provisions of either country's laws, since these are dealt with specifically in Part II of the Agreement.

Article 5
Portability of Benefits

1. Unless otherwise provided in this Agreement, any provision of the laws of a Contracting State which restricts entitlement to or payment of benefits solely because the person resides outside or is absent from the territory of that Contracting State shall not be applicable to the persons designated in Article 3 (a), (b), (c) or (d) who reside in the territory of the other Contracting State.

Article 5.1 provides that where the laws of either country require that a person be resident or present in that country in order to qualify for or receive social security benefits, the person may also qualify for and receive those benefits during periods of residence in the other country. U.S. law already permits payment of benefits to U.S. and Denmark nationals who reside in either country.

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2. Section 202(t)(11)(E) of the Social Security Act of the United States shall not apply to a Danish national unless he or she is a resident of the United States, Denmark or a third country with which the United States has a Social Security agreement in force concluded pursuant to section 233 of the Social Security Act.

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Under section 202(t)(11) of the Social Security Act, dependent and survivors benefits generally may not be paid to individuals who are not citizens or nationals of the United States and who are outside the United States for more than six consecutive months unless they satisfy certain U.S. residency requirements. However, under paragraph (E) of section 202(t)(11), citizens or residents of a country with which the United States has concluded a social security agreement are exempt from these residence requirements, unless the agreement includes a provision that limits the scope of the exemption. Article 5.2 is intended to limit the scope of the exemption.

Under Article 5.2, the exemption in section 202(t)(11)(E) will only apply to residents of Denmark and to Danish citizens who reside in a third country with which the United States has a social security agreement in force. This limitation is intended to reciprocate a limitation implicit in Article 5.1. Although Article 5.1 will overcome certain portability restrictions in Danish law, it will only do so for people who are resident or physically present in the United States and who are U.S. citizens, citizens of Denmark or another European Union member State, stateless persons or refugees and their dependents and survivors. Article 5.1 does not remove Danish portability restrictions for other persons residing in the United States.

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PART II

Provisions Concerning Applicable Laws

Article 6

Provisions on Coverage

Part II is intended to eliminate dual social security coverage, the situation that occurs when a worker is covered under the laws of both countries with respect to the same services. In so doing, the existing coverage provisions of the laws of both countries are preserved to the greatest extent possible. The provisions in this Part are intended to eliminate dual coverage by continuing the worker's social security coverage and taxation under the system of the country to whose economy he or she has the more direct connection and exempting the worker from coverage and taxation under the other country's system.

A worker who is subject only to Danish laws by virtue of Part II of the Agreement will be exempt, together with his or her employer, from U.S. Social Security contributions and from hospital insurance contributions under Medicare. When a worker is subject only to U.S. laws, the worker (and his or her employer) will be exempted from contributing to all Danish pension programs, as well as from contributing to the Danish Labour Market Fund, which provides unemployment and sickness benefits.

Article 6.1 establishes a general rule for eliminating dual social security coverage and contributions for persons employed in either the United States or Denmark. Article 6.2 contains exceptions to this rule which apply in the case of employees sent by an employer in one country to work temporarily in the other country. Article 6.4 provides for the elimination of dual coverage in the case of self-employed persons. Article 6.6 precludes dual coverage that might otherwise occur for employees in international shipping and air transportation. Article 6.7 establishes rules applicable to persons employed in U.S. or Danish Government service.

1. Except as otherwise provided in this Article, a person employed within the territory of one of the Contracting States shall, with respect to that employment, be subject to the laws of only that Contracting State.

Article 6.1 establishes a territoriality rule which stipulates that a person's employment in one country will be compulsorily covered by only that country. Thus, a person working in employment that would otherwise be covered under the laws of both countries will remain covered under the system of the country where the employment takes place and will be exempt from coverage under the system of the other country.

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2. (a) Where a person who is normally employed in the territory of the United States by an employer in that territory is sent by that employer to the territory of Denmark for a temporary period, the person shall be subject to the laws of only the United States as if the person were employed in the territory of the United States, provided that the period of employment in the territory of Denmark is not expected to exceed five years. For purposes of applying this paragraph, an employer and an affiliated company of that employer (as defined under the laws of the United States) shall be considered one and the same, provided that the employment would have been covered under United States laws absent this Agreement.

(b) Where a person who is resident in the territory of Denmark and employed by an employer whose registered office or place of business is situated in that territory is sent by that employer from that territory to the territory of the United States for a temporary period, the person shall be subject to the laws of only Denmark as if the person were employed and resident in the territory of Denmark, provided that the period of employment in the territory of the United States is not expected to exceed three years.

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Under Article 6.2(a), an employee who normally works for an employer located in the United States and who is temporarily transferred to work in Denmark for the same employer (or a subsidiary or affiliate of the same employer) will continue to be covered by the social security system of the United States. This rule will apply only if the transfer is expected to last 5 years or less.

Article 6.2(a) also provides that this rule will apply in the case of certain employees who are sent by an employer in the United States to work for a subsidiary or other affiliate of that employer in Denmark. U.S. law permits American companies to extend U.S. Social Security coverage to U.S. citizens and resident aliens employed by an affiliated company in another country. To do this, the parent company in the United States must enter into an agreement with the Internal Revenue Service (IRS) to pay Social Security contributions on behalf of all U.S. citizens and residents employed by the foreign affiliate. Under Article 6.2(a), U.S. citizens or resident aliens who are sent by an American employer to work for an affiliated company in Denmark for 5 years or less will continue to be covered by the United States and will be exempted from Danish coverage and contributions, provided the affiliate is covered by an IRS agreement.

For purposes of measuring the length of a transfer for workers who were sent from the United States to Denmark before the Agreement entered into force, any period of work before the Agreement's entry into force will be disregarded. (See Article 20.3.)

Under Article 6.2(b), when an employee who normally resides and works for an employer located in Denmark is temporarily transferred to work in the United States for the same employer, the employee will continue to be covered by the social security system of Denmark. This rule will apply only if the transfer is expected to last 3 years or less. If the transfer is expected to last for more than 3 years, the person will be subject to the social security laws of the United States, beginning with the first day of the transfer.

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3. Paragraph 2 shall apply where a person who has been sent by his or her employer from the territory of one Contracting State to the territory of a third State and who is compulsorily covered under the laws of that Contracting State while employed in the territory of the third State is subsequently sent by that employer from the territory of the third State to the territory of the other Contracting State.	Under Article 6.3, the provisions of Article 6.2 will apply even if an employee has not been sent directly from one country to the other, but is first assigned to work in a third country.
4. A self-employed person who resides within the territory of a Contracting State shall be subject to the laws of only that State.	Article 6.4 eliminates dual coverage and contributions with respect to self-employment. It provides that self-employed persons residing in Denmark will be covered only under Danish laws, and self-employed persons residing in the United States will be covered only under U.S. laws.
5. Where the same activity is considered to be self-employment under the laws of one Contracting State and employment under the laws of the other Contracting State, that activity shall be subject to the laws of only the first Contracting State if the person is a resident of that State and to the laws of only the other Contracting State in any other case.	Article 6.5 eliminates dual coverage in cases where a person's work activity is considered to be self-employment under the laws of one country and employment under the laws of the other and is compulsorily covered by both countries. Under Article 6.5, a person who is a resident of the country which considers the work to be self-employment will be subject only to the social security laws of that country. A person who is not a resident of the country which considers the work to be self-employment will be subject to the laws of the other country
6. (a) A person who is employed as an officer or member of a crew on a vessel which flies the flag of one Contracting State and who is covered under the laws of both Contracting States, shall be subject to the laws of only the Contracting State whose flag the vessel flies. For purposes of the preceding sentence, a vessel which flies the flag of the United States is one defined as an American vessel under the applicable laws of the United States.	Under Article 6.6(a), a person employed on a U.S. or Danish ship who is covered under the laws of both countries will be covered only under the laws of the country whose flag the ship flies. A ship is considered to fly the flag of the United States if it is an American vessel as defined in section 210(c) of the Social Security Act. Under that definition, an American vessel is one that is documented or numbered under U.S. law or one that is not documented or numbered under the laws of any country if its crew is employed solely by one or more U.S. citizens or residents or corporations organized under Federal or State law.

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(b) If a person is employed as an officer or member of a crew on an aircraft and is covered under the laws of both Contracting States, the person shall be subject to the laws of only the Contracting State in whose territory the employer is headquartered.

Under Article 6.6(b), a member of the flight crew of an aircraft operating between the United States and Denmark who would otherwise be covered under the laws of both countries will be covered only by the country in which the company employing the person is headquartered.

7. (a) This Agreement shall not affect the provisions of the Vienna Convention on Diplomatic Relations of April 18, 1961, or of the Vienna Convention on Consular Relations of April 24, 1963.

Article 6.7 provides coverage rules applicable to employees of the U.S. and Danish Governments. Article 6.7(a) is intended to make clear that, in general, the categories of persons mentioned in the Vienna Conventions on diplomatic and consular relations will not be affected by the coverage provisions of the Agreement. The Conventions, to which both the United States and Denmark are parties, apply to members of the staff of a diplomatic or consular mission, including the diplomatic, consular, administrative and technical staffs; family members of such staff who form part of their households; the domestic service staff of the mission; and private servants employed by the members of such missions.

In general, the Vienna Conventions exempt such persons from social security coverage and contributions under the laws of the host country unless specific arrangements have been made to waive their immunity from taxation. Persons whose immunity has been waived would be subject to the laws of the host country, including the coverage provisions of this Agreement.

(b) Nationals of one of the Contracting States who are employed by the Government of that Contracting State in the territory of the other Contracting State but who are not exempt from the laws of the other Contracting State by virtue of the Conventions mentioned in subparagraph (a) shall be subject to the laws of only the first Contracting State. For the purpose of this paragraph, employment by the United States Government includes employment by an instrumentality thereof, and employment by the Danish Government includes employment by Danish public employers.

Article 6.7(b) provides that if a U.S. or Danish national is employed by his or her Government in the other country but is not exempt from host country coverage by virtue of the Vienna Conventions (for example, because the person is not employed in a diplomatic or consular mission), the person will be subject only to the laws of his or her own country. This provision applies not only to U.S. Government employees, but also to persons working for a U.S. Government instrumentality.

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8. If, under paragraph 2, a person continues to be subject to the laws of a Contracting State while in the territory of the other Contracting State, that paragraph shall also apply by analogy to the person's family members who accompany the person, unless they are themselves employed or self-employed in the territory of the latter Contracting State.	Under Article 6.8, the family members accompanying an employee who is covered by the social security system of one country, while working in the other country, will also be subject to the laws of the first country, unless they themselves are working. This provision is particularly important under the Danish Social Pension program, which provides coverage for all residents of Denmark. Under Danish laws, a person is considered a Danish resident, and therefore compulsorily covered under the Danish social security programs, after staying in Denmark for 6 months.
9. The Competent Authorities of the two Contracting States may agree to grant an exception to the provisions of this Article with respect to particular persons or categories of persons, provided that any affected person shall be subject to the laws of one of the Contracting States.	Under Article 6.9, either country may grant an exception to the coverage rules of the Agreement, provided that the other country agrees and the person involved remains subject to the coverage laws of one of the countries. Such an exception may be granted on behalf of an individual worker or on behalf of all workers employed under similar circumstances; e.g., in the same profession or for the same employer. This provision is designed to permit the competent authorities or their designated liaison agencies to correct anomalous coverage situations that may arise to the disadvantage of workers or to eliminate dual coverage in unforeseen circumstances.
10. Except as otherwise provided in this Part, a person who does not reside in the territory of the Kingdom of Denmark shall not be subject to Danish laws.	Because Danish laws base social security coverage and contributions on residency, rather than work activity, Danish residents who do not work may be required to contribute to the Danish social security programs. Article 6.10 makes clear that, except as otherwise provided in this Part (see annotations to Article 6.2(b) and 6.8), only persons residing in Denmark will be subject to Danish laws.
11. United States nationals employed in the territory of Denmark shall be covered by the Labour Market Supplementary Pension (ATP) scheme unless the employment period is on a short term basis, which means a maximum of 6 months or, in case of employment as part of a training or education scheme, 18 months.	Under Article 6.11, U.S. nationals working in Denmark for fewer than 6 months will not be covered by the Labour Market Supplementary Pension (ATP). (As explained in the annotation to Article 1.1(h), a person is considered a Danish resident after 6 months.) U.S. nationals working in Denmark as part of training or an education plan that will not exceed 18 months will not be covered by the ATP. If the period of work will exceed 6 or 18 months, the worker will either be subject to Danish laws under Article 6.1 or exempt from Danish laws under Article 6.2(a).

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PART III

Provisions on Benefits

Article 7
Benefits under United States Laws

The following provisions shall apply to the United States:

1. Where a person has completed at least six quarters of coverage under United States laws, but does not have sufficient periods of coverage to satisfy the requirements for entitlement to benefits under United States laws, the agency of the United States shall take into account, for the purpose of establishing entitlement to benefits under this Article, periods of coverage and periods of Danish residence as defined in paragraph 2 which are credited under Danish laws and which do not coincide with periods of coverage already credited under United States laws.

2. For purposes of this Article, a "period of Danish residence", means a period after March 31, 1957:

   (i) credited or recognized as a period of residence under Danish laws during the qualifying period laid down in the Social Pensions Act; and
   (ii) during which a person has worked.

3. In determining eligibility for benefits under paragraph 1 of this Article, the agency of the United States shall credit one quarter of coverage for every 3 months of coverage or 3-month period of Danish residence certified by the agency of Denmark; however, no quarter of coverage shall be credited for any calendar quarter

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Part III establishes the basic rules for determining social security benefit entitlement when an individual has worked in both the United States and Denmark and the rules for determining benefit amounts when entitlement is based on combined work credits. Article 7 deals with the U.S. system, and Article 8 contains rules specifically applicable to the Danish system.

Article 7 contains rules for determining U.S. benefit eligibility and amounts in the case of people who have periods of social security coverage in Denmark and at least six quarters of coverage in the United States, but who do not have enough U.S. coverage to qualify for U.S. benefits. In such cases, the Social Security Administration, in accordance with Article 7.1, will take into account any periods of Danish coverage credited under Danish laws (and periods of Danish residence as defined in Article 7.2) insofar as these periods do not coincide with quarters of coverage already credited under U.S. laws.

For purposes of establishing entitlement to benefits under the contributory, earnings-related U.S. Social Security program, the Social Security Administration will only consider Danish social security coverage that is related to work. The Danish ATP system records contributory, work-related coverage. The Danish Social Pension program, which became effective April 1, 1957, provides non-contributory benefits based on residence in Denmark. Article 7.2 makes clear that only those periods of residence in Denmark during which a person has worked will be considered by the Social Security Administration in establishing entitlement to U.S. Social Security benefits.

Article 7.3 establishes the procedure that SSA will follow in converting periods of coverage under the Danish system and periods of Danish residence as defined in Article 7.2 into equivalent periods under the U.S. system. Periods of coverage under the U.S. system are measured in terms of calendar quarters while Danish periods of contribution and

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already credited as a quarter of coverage under United States laws. The total number of quarters of coverage to be credited for a year shall not exceed four.

4. Where entitlement to a benefit under United States laws is established according to the provisions of paragraph 1 of this Article, the agency of the United States shall compute a pro rata Primary Insurance Amount in accordance with United States laws based on (a) the person's average earnings credited exclusively under United States laws and (b) the ratio of the duration of the person's periods of coverage completed under United States laws to the duration of a coverage lifetime as determined in accordance with United States laws. Benefits payable under United States laws shall be based on the pro rata Primary Insurance Amount.

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periods of residence are measured in months. Beginning in 1978, U.S. quarters of coverage are based on the amount of a person's annual earnings (e.g., for 2007, $1,000 in earnings equals one quarter of coverage). Under Article 7.3, SSA will credit one quarter of coverage in a calendar year for every 3 months of contribution or residence during which a person worked certified for that year by the Danish agency. However, SSA will not credit months of Danish contribution or residence which fall within a calendar quarter which has already been credited as a U.S. quarter of coverage. In addition, SSA will not credit more than 4 quarters of coverage for any calendar year.

Article 7.4 describes the method of computing U.S. benefit amounts when entitlement is established by totalizing (i.e., combining) periods of U.S. and Danish coverage. As stipulated in Article 7.1, persons who qualify for U.S. benefits based solely on their U.S. coverage are not eligible for U.S. totalization benefits.

Under the procedure outlined in Article 7.4, the amount of the worker's benefit depends on both the level of his or her earnings and the duration of his or her coverage under U.S. Social Security. This computation procedure is described in detail in SSA regulations (20 CFR 404.1918 as revised July 24, 1984). The first step in the procedure is to compute a theoretical Primary Insurance Amount (PIA) as though the worker had spent a full coverage lifetime (i.e., full career) under U.S. Social Security at the same level of earnings as during his or her actual periods of U.S. covered work. The theoretical PIA is then prorated to reflect the proportion of a coverage lifetime completed under the U.S. program. A coverage lifetime is defined in the regulations as the number of the worker's benefit computation years; i.e., the years which must be used in determining a worker's average earnings under the regular U.S. national computation method.

PRINCIPAL AGREEMENT

5. Entitlement to a benefit from the United States which results from paragraph 1 of this Article shall terminate with the acquisition of sufficient periods of coverage under United States laws to establish entitlement to an equal or higher benefit without the need to invoke the provision of paragraph 1 of this Article.

ANNOTATIONS AND COMMENTS

Article 7.5 provides that when a worker who is entitled to a pro rata totalization benefit from the United States acquires additional U.S. coverage which enables the person to qualify for an equal or higher benefit based solely on his or her U.S. coverage, the Social Security Administration will pay the regular national law benefit rather than the totalization benefit.

Article 8
Benefits under Danish Laws

Danish social security benefits are paid to workers and residents who meet the applicable eligibility standards, including minimum length of coverage and minimum length of residency requirements. The Danish Social Pension system establishes differing length of residency requirements for Danish nationals than for foreign nationals. Under the Agreement, U.S. nationals, stateless persons, refugees, their family members and survivors will be able to qualify for Danish Social Pensions under the same, more favorable conditions that apply for Danish nationals, provided they have worked at least 12 months in Denmark.

DANISH SOCIAL SECURITY BENEFITS

GENERAL

The Danish social security system is a mixture of universal, means-tested and contributory programs. It includes a two-tier, compulsory pension program, as well as a third tier of voluntary programs.

The first tier of the Danish pension program, which is called the Folkepension in Danish and "Social Pension" in English, is a non-contributory program that covers all residents of Denmark. Social Pension benefits are paid in flat-rate amounts that are prorated according to the number of years of Danish residence.

PRINCIPAL AGREEMENT

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The second tier of the pension program includes two earnings-related programs known as the Labour Market Supplementary Pension (ATP) and the Special Pension Savings Scheme (SP). Enacted in 1964, the ATP is an employment-related pension program that covers all employees in Denmark between the ages of 16 and 65 who are permanently employed at least 9 hours per week. The SP was enacted in 1998, and is a compulsory program under which employees, the self-employed, and some groups of Social Pension recipients (those receiving benefits due to illness, unemployment, or income support) pay 1 percent of their gross income for pension savings. The agreement only affects entitlement to Social Pension benefits.

RETIREMENT BENEFITS

This Agreement applies to retirement benefits paid under the universal residence-based Social Pension program. Contributors to the employment-related ATP program are immediately vested and the ATP provides unrestricted payment of benefits worldwide.

Social Pension Program

Under the Social Pension program, Danish nationals who have resided in Denmark for at least 3 years between the ages of 15 and 65 are eligible for retirement benefits at age 65. The Social Pension retirement benefit consists of a flat-rate basic amount that is prorated according to the number of years of residence in Denmark. Individuals who have resided in Denmark for at least 40 years between the ages of 15 and 65 receive the full basic amount. Others receive 1/40 of the full amount for each year of residence in Denmark between those ages.

ATP Program

An ATP pension is payable at age 65 to anyone who has contributed to the program. The amount of the ATP benefit depends on the duration of time employed and the contributions paid. An ATP pension also may include a "bonus pension" based on the ATP fund's return on investment

over the years. The ATP pension is calculated on the assumption that the ATP contributions earn an annual interest rate of 4.5 percent. However, the ATP's average annual return on investments has been 11 percent since the beginning of the program in 1964, creating a sizeable surplus in the ATP pension fund, which results in the bonus pension.

Special Pension Scheme

The Special Pension Scheme is a compulsory program under which employees, the self-employed, and some groups of Social Pension benefit recipients pay contributions for pension savings. In 1998, employees were required to make a temporary contribution of 1 percent of earnings to the Special Pension. In 1999, the 1-percent contribution became permanent. Contributors receive a monthly pension at age 65. Special Pension benefits, like ATP benefits, are payable abroad to both Danish and foreign nationals without restriction.

DISABILITY AND SURVIVORS BENEFITS

Social Pension Program

The Danish Social Pension system pays a benefit referred to as an "Anticipatory Pension" that plays the same role as disability and survivors pensions in most other countries. Anticipatory pension is payable to persons aged 18 to 65 whose capacity for work is materially reduced for physical, mental or social reasons (e.g., unemployment, divorce or the breadwinner in the family died) and the person is otherwise unable to assure his or her subsistence. Anticipatory pension is only awarded when all relevant possibilities for developing or using the individual's remaining capacity for work have been exhausted.

Danish nationals, foreigners with 10 years of residence between ages 18 and 65 (five of which were in the last 10 years), refugees, employees and self-employed persons from European Union (EU) member States may become eligible for the anticipatory pension.

Anticipatory pensions payable to the survivor of an insured person are means tested. If a spouse or member of a cohabiting couple dies and both were receiving a Social Pension benefit, the surviving partner remains entitled to the full amount of both partners' benefits for three months after the date of death.

Survivors may also apply to the Danish Ministry of the Interior and Health for a funeral benefit if, at the time of death, the pensioner was a resident of Denmark, an EU member State, Liechtenstein, or Switzerland. The funeral benefit amount is also means tested.

ATP Program

Disability benefits are not provided under the ATP program. However, a surviving spouse and children can become entitled to a lump-sum ATP survivors benefit upon the worker's death, but only if the worker was born after 1936. If the member contributed to the ATP prior to January 1, 2002, the member's surviving spouse and children under the age of 18 can be entitled to an ATP lump-sum survivors benefit upon the member's death. The amount of the lump-sum benefit depends upon the member's ATP contributions. If the member contributed to the ATP after January 1, 2002, the surviving spouse, common-law spouse and children under the age of 21 may qualify for a lump-sum benefit, provided the worker paid ATP contributions for at least two years. The lump-sum benefit is reduced if the worker dies between ages 66 and 70 and is not payable if the worker dies after age 70.

PRINCIPAL AGREEMENT

The following provisions shall apply to Denmark:

1. United States nationals shall be entitled to a Danish social pension under the same conditions as Danish nationals residing in the territory of Denmark if in the qualifying period laid down in the Social Pensions Act the person has had a total period of work under Danish laws of at least 12 months.

2. Where the condition on work under paragraph 1 of this Article has not been met, a person shall be entitled to a Danish social pension if the person has been resident in Denmark for a period of not less than 10 years in the qualifying period laid down in the Social Pensions Act, of which not less than five years immediately precede the date on which the pension is first payable.

3. Social pension and the highest, the intermediate, the increased ordinary and the ordinary anticipatory pension shall be payable to United States nationals and persons designated in Article 3 (b), (c), or (d) residing in the territory of the United States if the person concerned fulfills the condition on work in paragraph 1 of this Article.

4. Where the condition on work in paragraph 1 of this Article has not been met, a pension awarded in pursuance of the Social Pensions Act to a United States national or a person designated in Article 3 (b), (c), or (d) residing in the territory of Denmark shall nonetheless continue to be payable in the territory of the United States.

ANNOTATIONS AND COMMENTS

As described above, under Danish national law, Danish nationals can qualify for Social Pension benefits with 3 years of residence in Denmark, but foreign nationals must have resided in Denmark for at least 10 years, five of which must immediately precede application. Article 8.1 provides that U.S. nationals who have worked in Denmark for at least 12 months will be accorded the same treatment regarding benefit rights as Danish nationals (i.e., they will be able to qualify for Social Pensions with 3 years of Danish residence).

Under Article 8.2, a person who does not meet the minimum 12-month work requirement established in Article 8.1 will be able to qualify for Danish Social Pension benefits if he or she has resided in Denmark for a minimum of 10 years, of which the last 5 immediately precede the date on which a Danish pension is payable.

Article 8.3 permits payment of Danish Social Pension benefits (including anticipatory pensions under both the old and new Acts) to U.S. nationals, refugees and stateless persons who reside in the United States, as well as to persons regardless of nationality who derive rights through any of the above (such as family members and survivors) who reside in the United States, as long as the person has worked a minimum of 12 months in Denmark.

Under Article 8.4, where a U.S. national has not worked in Denmark for at least 12 months, yet has been receiving a Social Pension benefit from Denmark while residing in Denmark, he or she will be able to receive Social Pension benefits in the United States. This applies as well to refugees, stateless persons and persons deriving their rights from them.

PRINCIPAL AGREEMENT

5. For purposes of meeting the 12-month work requirement of paragraph 1 of this Article, the following periods shall be accepted:

   (a) periods of work for which membership contributions were paid in respect of a member of the Danish Labour Market Supplementary Pension Scheme (ATP);

   (b) periods before April 1, 1964, for which a person establishes that he or she worked under Danish laws;

   (c) periods for which a person establishes that he or she was self–employed under Danish laws.

6. Periods described in paragraph 5 of this Article may be combined for purposes of meeting the 12-month work requirement in paragraph 1 of this Article.

7. The basic amount and the anticipatory pension payable in pursuance of the Social Pensions Act as well as the basic amount, anticipatory allowance, disability allowance, unemployability allowance and extra supplementary allowance payable in pursuance of the Act on the highest, the intermediate, the increased ordinary and the ordinary anticipatory pension shall be payable to a person designated in Article 3 (a), (b), (c) or (d) residing in the territory of the United States.

8. The provisions laid down in the Social Pensions Act, making periods of stay abroad equivalent with residence in the territory of Denmark in the calculation of the period of residence, shall apply to United States nationals only if they have completed a period of residence or work in Denmark under Danish laws totaling at least 12 months in the qualifying period as laid down in the Social Pensions Act.

ANNOTATIONS AND COMMENTS

Under Articles 8.5 and 8.6, the 12-month work requirement established in Article 8.1 can be met using periods of ATP contributions for work, periods of work under Danish laws before April 1, 1964, periods of self-employment under Danish laws or a combination of these periods.

Under Danish law, Social Pension benefits (including the anticipatory pension under both the old and new rules) are not payable to non-Danish nationals residing outside of Denmark, except where provided under an international agreement. Article 8.7 provides that all benefits payable under the Social Pension Act and the Act on the highest, the intermediate, the increased ordinary, and the ordinary anticipatory pension shall be payable to U.S. nationals, refugees, stateless persons, and their family members or survivors who reside in the United States.

Under the Danish Social Pensions Act, Danish citizens are credited with periods of residence in Denmark for purposes of establishing entitlement to Danish Social Pension benefits for periods of service on board a Danish vessel, residence abroad as a representative of a Danish public authority, residence abroad in service of Danish interests, residence abroad if employed in any branch or subsidiary of a Danish business and residence abroad for education and training. Under Article 8.8, U.S. nationals will also obtain credit for these periods provided they have 12 months of residence or employment in Denmark.

PRINCIPAL AGREEMENT

9. Periods of residence completed under Danish laws after March 31, 1957 shall be taken into account for the calculation of social pensions under Danish laws payable to nationals of the United States and persons designated in Article 3(b), (c) or (d) resident in the territory of the United States.

ANNOTATIONS AND COMMENTS

April 1, 1957 is the date the Danish Social Pension program became effective. Under Article 7.2, SSA will consider periods of Danish residence related to work occurring after March 31, 1957 in establishing entitlement to U.S. totalized benefits. Article 8.9 permits U.S. nationals, refugees, stateless persons, their family members and survivors to also receive credit for periods of residence in Denmark after that date for purposes of establishing entitlement to Danish Social Pension benefits.

PRINCIPAL AGREEMENT

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PART IV
Miscellaneous Provisions

Article 9
Administrative Arrangements

The Competent Authorities of the two Contracting States shall:

(a) make all necessary administrative arrangements for the implementation of this Agreement and designate liaison agencies;

(b) communicate to each other information concerning the measures taken for the implementation of this Agreement; and

(c) communicate to each other, as soon as possible, information concerning all changes in their respective laws which may affect the implementation of this Agreement.

Article 9 outlines various duties of the Competent Authorities under the Agreement. Paragraph (a) authorizes the agencies to make any administrative arrangements and understandings that may be necessary to implement and administer the Agreement, and requires that they designate liaison agencies that will have primary responsibility for coordinating and administering the coverage and benefit provisions of the Agreement. (See Article 2.1 of the Administrative Arrangement for these designations.) Paragraph (b) requires the Competent Authorities to notify each other of measures they have taken unilaterally to implement the Agreement. Paragraph (c) obligates the Competent Authorities to notify each other of any changes in their respective social security laws that may affect the implementation of the Agreement.

Article 10
Mutual Assistance

The Competent Authorities and the agencies of the Contracting States, within the scope of their respective authorities, shall assist each other in implementing this Agreement. This assistance shall be free of charge, subject to exceptions to be agreed upon in an administrative arrangement.

Article 10 provides authority for the two countries to furnish each other nonreimbursable assistance in administering the Agreement. Such assistance may include taking applications for benefits and gathering and exchanging information relevant to claims filed under the Agreement. Although Article 10 establishes a general principle that mutual administrative assistance will be free of charge, the provision authorizes the two sides to agree to exceptions, such as the exception regarding medical examinations in Article 7.3 of the Administrative Arrangement. Article 7.1 and 7.4 of the Administrative Arrangement provide additional procedures regarding reimbursement of exceptional expenses.

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Article 11

Confidentiality of Exchanged Information

Unless otherwise required by the national statutes of a Contracting State, information about an individual which is transmitted in accordance with this Agreement to that Contracting State by the other Contracting State shall be used exclusively for purposes of implementing this Agreement. Such information received by a Contracting State shall be governed by the national statutes of that Contracting State for the protection of privacy and confidentiality of personal data.

Both the United States and Denmark have statutes and regulations that govern disclosure of personal information and provide safeguards for maintaining the confidentiality of information pertaining to individuals which is in the possession of their respective Governments. In the United States, these statutes include the Freedom of Information Act, the Privacy Act, section 6103 of the Internal Revenue Code, and pertinent provisions of the Social Security Act and other related statutes. Article 11 provides that personal information pertaining to an individual which one country furnishes to the other under the Agreement will be used only for administering the Agreement and will be protected according to the receiving country's privacy and confidentiality laws.

Article 12

Documents

1. Where the laws of a Contracting State provide that any document which is submitted to the Competent Authority or an agency of that Contracting State shall be exempted, wholly or partly, from fees or charges, including consular and administrative fees, the exemption shall also apply to corresponding documents which are submitted to the Competent Authority or an agency of the other Contracting State in the implementation of this Agreement.

Article 12.1 provides that if the laws of one country exempt documents submitted in connection with a social security claim from fees or charges, that exemption shall also apply if such documents are sent to the other country by or on behalf of a claimant or beneficiary.

2. Documents and certificates which are presented for purposes of this Agreement shall be exempted from requirements for authentication by diplomatic or consular authorities.

Some countries require that the authenticity of documents submitted to their social security authorities by or on behalf of persons in another country be certified by a diplomatic, consular or other official representative in the other country. (The United States has no such requirements.) Under Article 12.2, neither the United States nor Denmark will require such authentication of documents presented for purposes of this Agreement.

PRINCIPAL AGREEMENT

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3. Copies of documents which are certified as true and exact copies by an agency of one Contracting State shall be accepted as true and exact copies by an agency of the other Contracting State, without further certification. The agency of each Contracting State shall be the final judge of the probative value of the evidence submitted to it from whatever source.

Article 12.3 provides that if the agency of one country certifies that a copy of a document it furnishes to the agency of the other country is a true and exact copy of an original document, the other country will accept this certification. Nevertheless, each country will remain the final judge of the probative value of any documents submitted to it.

Article 13

Correspondence and Language

1. The Competent Authorities and agencies of the Contracting States may correspond directly with each other and with any person wherever the person may reside whenever it is necessary for the administration of this Agreement.

Article 13.1 authorizes direct correspondence between the agencies of the two countries and between these bodies and any person, such as claimants and employers, with whom they may need to communicate. The correspondence may be in either English or Danish.

2. An application or document may not be rejected by a Competent Authority or agency of a Contracting State solely because it is in the language of the other Contracting State.

The agencies of the two countries may not reject applications or documents because they are in the language of the other country. The United States already accepts applications and documents without regard to the language in which they are written.

Article 14

Applications

1. A written application for benefits filed with an agency of one Contracting State shall protect the filing date of the claimant for benefits under the laws of the other Contracting State if the applicant requests that it be considered an application under the laws of the other Contracting State.

Under Article 14.1, a written application submitted to an agency of one country will protect a claimant's right to benefits under the laws of the other country as if the application had been presented in the other country, provided the applicant expresses an intent to file for benefits in the other country when the application is filed.

2. If an applicant has filed a written application for benefits with an agency of one Contracting State and has not explicitly requested that the application be restricted to benefits under the laws of that Contracting State, the application shall also protect the filing date of the claimant for benefits under the laws of the other Contracting State if the applicant provides information at the time

Because an applicant may not be fully aware of his or her benefit rights in the other country, Article 14.2 provides that, in the absence of an expression of intent, the application will also protect the claimant's date of filing in the other country if the applicant indicates at the time of filing that the person on whose record benefits are claimed has been covered under social security in the other country.

PRINCIPAL AGREEMENT

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of filing indicating that the person on whose record benefits are claimed has completed periods of coverage under the laws of the other Contracting State.

3. The provisions of Part III shall apply only to benefits for which an application is filed on or after the date this Agreement enters into force.

Article 14.3 requires that a person claiming benefits under the Agreement file an application either on or after the date the Agreement enters into force.

Article 15

Appeals and Time Limits

1. A written appeal of a determination made by an agency of one Contracting State may be validly filed with an agency of either Contracting State. The appeal shall be dealt with according to the procedure and laws of the Contracting State whose decision is being appealed.

Both the United States and Denmark have formal procedures for appealing adverse determinations of their agencies. Under Article 15.1, an appeal of a decision by the agency of one country may be filed with the agency of that country or with the agency of the other country. In either case, the appropriate agency of the country whose decision is being appealed would consider the appeal based on its own laws and procedures.

2. Any claim, notice or written appeal which, under the laws of one Contracting State, must have been filed within a prescribed period with an agency of that Contracting State, but which is instead filed within the same period with an agency of the other Contracting State, shall be considered to have been filed on time.

Article 15.2 provides that a claim, notice or written appeal which must be filed within a prescribed time limit with the agency of one country will be considered to have been filed on time if it is filed within such limit with the agency of the other country.

Article 16

Transmittal of Claims, Notices and Appeals

In any case to which the provisions of Article 15 of this Agreement apply, the agency to which the claim, notice or written appeal has been submitted shall indicate the date of receipt on the document or on a form agreed upon for this purpose pursuant to Article 9(a) and transmit it without delay to the liaison agency of the other Contracting State.

The agency with which a claim, notice or written appeal is filed under Article 15 of the Agreement shall transmit it without delay to the agency of the other country, indicating the date the document was received.

PRINCIPAL AGREEMENT

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Article 17
Currency and Fees

1. Payments under this Agreement may be made in the currency of the Contracting State making the payments.

Benefits that are payable under this Agreement may be paid in the currency of either country. The normal U.S. practice is to pay benefits in U.S. dollars. Danish benefits may be paid abroad in U.S. dollars or Danish crowns.

2. In case provisions designed to restrict the exchange or exportation of currencies are introduced by either Contracting State, the Governments of both Contracting States shall immediately take measures necessary to insure the transfer of sums owed by either Contracting State under this Agreement.

Should either country impose restrictions on the exchange of its currency, steps shall be taken to assure the payment of amounts due under the Agreement.

Article 18
Settlement of Disagreements

Any disagreement regarding the interpretation or implementation of this Agreement shall be resolved through consultation between the Competent Authorities.

Article 18 obligates the Competent Authorities to attempt to resolve any dispute between them regarding the Agreement through direct consultation or negotiation.

Article 19
Supplementary Agreements

This Agreement may be amended in the future by supplementary agreements which, from their entry into force, shall be considered an integral part of this Agreement. Such agreements may be given retroactive effect if they so specify.

Article 19 provides that the Agreement may be amended by future supplementary agreements and that such agreements may have retroactive effect. After a supplementary agreement becomes effective, it will be considered an integral part of the Agreement.

PRINCIPAL AGREEMENT

ANNOTATIONS AND COMMENTS

PART V
Transitional and Final Provisions
Article 20
Transitional Provisions

1. This Agreement shall not establish any claim to payment of a benefit for any period before the date of entry into force of the Agreement, or to a lump-sum death benefit under United States laws if the person died before the entry into force of the Agreement.

Benefits payable based on the Agreement will be paid for periods beginning no earlier than the effective date of the Agreement. Any lump-sum death payments provided by section 202(i) of the U.S. Social Security Act will be paid under the Agreement only if the death occurs on or after the Agreement's effective date.

2. In determining the right to benefits under this Agreement, consideration shall be given to periods of coverage and other events material to the determination of benefits which occurred before the entry into force of this Agreement, except that neither Contracting State shall take into account periods of coverage which occurred prior to the earliest date for which periods of coverage may be credited under its laws.

In determining benefit eligibility and amounts under the Agreement, Article 20.2 provides that periods of coverage occurring before the Agreement enters into force will be taken into account. In addition, events material to the determination of benefit rights, such as marriage, death, disability or attainment of a certain age, that occurred prior to the effective date of the Agreement, will be considered in applying the Agreement.

3. In applying subparagraph (a) of Article 6, paragraph 2, in the case of persons who were sent from the territory of the United States to the territory of Denmark prior to the date of entry into force of this Agreement, the period of employment referred to in that subparagraph shall be considered to begin on that date.

Under Article 6.2(a), an employee who is transferred by his or her employer in the United States to work in Denmark for 5 years or less will continue to be covered under the U.S. social security system and will be exempt from coverage in Denmark. Article 20.3 provides that the 5-year period will be measured beginning no earlier than the date the Agreement enters into force. Thus, for persons to whom Article 6.2 applies who were transferred to Denmark before the effective date of the Agreement, that prior period will not be counted for purposes of the 5year limit.

4. Determinations concerning entitlement to benefits which were made before the entry into force of this Agreement shall not affect rights arising under it.

A decision to award or deny a claim which was rendered prior to the effective date of the Agreement will not prevent a person from filing a new application for additional benefits that may be payable as a result of the Agreement.

PRINCIPAL AGREEMENT

5. The implementation of this Agreement shall not result in any reduction in the amount of a benefit to which entitlement was established prior to its entry into force.

Article 21
Termination

1. This Agreement shall remain in force and effect until the expiration of one calendar year following the year in which written notice of its termination is given by one of the Contracting States to the other Contracting State.

2. If this Agreement is terminated, entitlement to benefits acquired under the Agreement shall be retained.

Article 22
Entry into Force

This Agreement shall enter into force on the first day of the third month following the month in which each Government shall have received from the other Government written notification that it has complied with all statutory and constitutional requirements for the entry into force of this Agreement.

ANNOTATIONS AND COMMENTS

Under Article 20.5, the amount of benefits to which a person was entitled prior to the effective date of the Agreement shall not be reduced as a result of the Agreement.

Article 21.1 provides for the Agreement to remain in effect until the expiration of one calendar year after the year the notice of termination is given by one of the countries.

Article 21.2 provides that if the Agreement is terminated, a person will retain benefit rights acquired before termination.

Each country will follow its own constitutional or statutory procedure for approval of the Agreement. Once each country has completed its internal approval process, the two Governments will exchange formal instruments of approval. The Agreement will enter into force on the first day of the third calendar month after the month in which each Government has received formal notification of approval from the other Government.

PRINCIPAL AGREEMENT

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed the present Agreement.

DONE at Copenhagen on June 13, 2007, in duplicate in the English and Danish languages, the two texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA: James P. Cain

FOR THE GOVERNMENT OF THE KINGDOM OF DENMARK:

Eva Kjer Hansen

ANNOTATIONS AND COMMENTS

The Agreement was signed on June 13, 2007, in Copenhagen by James P. Cain, the U.S. Ambassador to Denmark, and the Danish Minister for Social Affairs, Eva Kjer Hansen.

ADMINISTRATIVE ARRANGEMENT
FOR THE IMPLEMENTATION OF THE AGREEMENT
ON SOCIAL SECURITY
BETWEEN
THE UNITED STATES OF AMERICA
AND THE KINGDOM OF DENMARK

The Competent Authority of the United States of America and

the Competent Authority of the Kingdom of Denmark,

In conformity with Article 9(a) of the Agreement on Social Security between the United States of America and the Kingdom of Denmark, hereinafter referred to as the "Agreement", have agreed as follows:

CHAPTER I

General Provisions

Article 1

The terms used in this Administrative Arrangement shall have the same meaning as in the Agreement.

Article 1 provides that the terms used in both the Agreement and this Administrative Arrangement, whether defined in the Agreement or not, will have the same meaning as they have in the Agreement.

Article 2

1. The liaison agencies referred to in Article 9(a) of the Agreement shall be:

   (a) for the United States, the Social Security Administration;

   (b) for the Kingdom of Denmark, as far as the Labour Market Supplementary Pension Scheme (ATP) is concerned, the Labour Market Supplementary Pension Administration, and in all other situations, the National Social Security Agency.

2. The liaison agencies designated in paragraph 1 of this Article shall agree upon the joint procedures and forms necessary for the implementation of the Agreement and this Administrative Arrangement.

Article 2.1 designates the agencies in each country that will have primary responsibility for coordinating implementation and administration of the coverage and benefit provisions of the Agreement. The Social Security Administration is the designated liaison agency for the United States.

Denmark will have two liaison agencies: the Labour Market Supplementary Administration with respect to the Labour Market Supplementary Pension Scheme (also known by the Danish acronym ATP) and the National Social Security Agency with respect to all other matters.

Article 2.2 authorizes and requires the liaison agencies of the United States and Denmark to agree upon those procedures and forms that must be prepared jointly for the implementation of the Agreement and Administrative Arrangement.

CHAPTER II

Provisions on Coverage
Article 3

1. Where the laws of one Contracting State are applicable in accordance with any of the provisions of Article 6 of the Agreement, the agency of that Contracting State, upon request of the employer or self-employed person, shall issue a certificate stating that the employee or self-employed person is subject to those laws and indicating the duration for which the certificate shall be valid. This certificate shall be proof that the employee or self-employed person is exempt from the laws on compulsory coverage of the other Contracting State.

Under Article 3.1, the agency of the country whose social security coverage laws will continue to apply to a person in accordance with the various rules set forth in Article 6 of the Agreement will issue a certificate to that effect when requested to do so by an employer or a self-employed person. When presented to the appropriate agency of the other country, the certificate will establish the basis for the exemption of the person from the coverage laws of that country. Retroactive recovery of U.S. contributions paid with respect to services for which a coverage exemption has been in effect would be subject to the time limitations for refunds of taxes in the Internal Revenue Code.

2. The certificate referred to in paragraph 1 of this Article shall be issued:

   (a) in the United States, by the Social Security Administration;

   (b) in the Kingdom of Denmark, by the National Social Security Agency.

Article 3.2 designates the agencies in each country responsible for issuing certificates of coverage.

3. The agency of a Contracting State which issues a certificate referred to in paragraph 1 of this Article shall furnish a copy of the certificate or agreed upon information from the certificate to the liaison agency of the other Contracting State as needed by the agency of the other Contracting State.

Article 3.3 provides that the agency issuing a certificate of coverage will furnish a copy of the certificate or information from the certificate to the liaison agency in the other country when needed.

CHAPTER III

Provisions on Benefits

Article 4

1. Applications for benefits under the Agreement shall be submitted on forms to be agreed upon by the liaison agencies of the two Contracting States.

The U.S. and Danish agencies will agree on special application forms to be used by individuals who wish to file for benefits based on the Agreement.

2. The agency of a Contracting State with which an application for benefits is first filed in accordance with Article 14 of the Agreement shall provide the liaison agency of the other Contracting State with such evidence and other information in its possession as may be required to complete action on the claim.

Articles 4.2 and 4.3 outline the procedures to be followed by both countries for the exchange of pertinent information needed to process claims filed under the Agreement.

3. The agency of a Contracting State which receives an application that was first filed with an agency of the other Contracting State shall without delay provide the liaison agency of the other Contracting State with such evidence and other available information in its possession as may be required for it to complete action on the claim.

4. The agency of a Contracting State with which an application for benefits has been filed shall verify the information pertaining to the applicant and the applicant's family members. The types of information to be verified shall be agreed upon by the liaison agencies of both Contracting States.

Article 4.4 deals with the verification of claims information. Both U.S. and Danish laws require that certain information about individuals claiming benefits be verified (e.g., age and family relationship to the worker) before the claim can be approved. Article 4.4 provides that when a claim for benefits under the Agreement is filed in one country, the agency of that country will verify the relevant information and inform the agency of the other country of its findings. The agencies will agree upon the specific types of information which must be verified.

The purpose of this provision is to expedite the claims process by avoiding the duplication of effort that would result if the agencies of both countries were required to verify the same information. Although an agency may accept the findings of the other agency concerning the accuracy of information, it may, at its discretion, request documentary evidence to support those findings.

CHAPTER IV

Miscellaneous Provisions

Article 5

In accordance with measures to be agreed upon pursuant to paragraph 2 of Article 2 of this Administrative Arrangement, the agency of one Contracting State shall, upon request of the agency of the other Contracting State, furnish available information relating to the claim of any specified individual for the purpose of administering the Agreement.

Article 5 provides that the agency of one country will, upon request, furnish claims-related information to the agency of the other country in accordance with agreed upon procedures. Such procedures will be agreed upon by the agencies and will be consistent with the governing statutes of both countries.

Article 6

The liaison agencies of the two Contracting States shall exchange statistics on the number of certificates issued under Article 3 of this Administrative Arrangement and on the payments made to beneficiaries under the Agreement. These statistics shall be furnished annually in a form to be agreed upon.

Article 6 provides for an exchange of statistics concerning the number of certificates of coverage issued pursuant to Article 3 of this Administrative Arrangement and payments made to beneficiaries under the Agreement.

Article 7

1. Where administrative assistance is requested under Article 10 of the Agreement, expenses other than regular personnel and operating costs of the agency providing the assistance shall be reimbursed, except as may be agreed to by the Competent Authorities or liaison agencies of the Contracting States.

Under Article 7.1, expenses incurred in responding to requests for administrative assistance which require an agency to go outside its own organization--for example, to hire interpreters, conduct special field investigations, or arrange medical examinations--will be paid by the requesting agency, unless the two countries agree on a different arrangement. Expenses for regular personnel and operating costs will not be reimbursed.

2. Upon request, the liaison agency of either Contracting State shall furnish without cost to the liaison agency of the other Contracting State any medical information and documentation in its possession relevant to the disability of the claimant or beneficiary.

When the liaison agency in one country requests medical information from the liaison agency in the other country, the latter agency will furnish the requesting agency any pertinent medical records it has in its possession free of charge.

3. Where the agency of a Contracting State requires that a person in the territory of the other Contracting State who is receiving or applying for benefits under the Agreement submit to a medical examination, such examination, if requested by that agency, shall be arranged by the liaison agency of the other Contracting State in accordance with the rules of the agency making the arrangements and at the expense of the agency which requests the examination.

Article 7.3 provides that where a medical examination is necessary to establish eligibility for or continuing entitlement to a country's benefits that are payable under the Agreement, and the claimant or beneficiary is located in the other country, the agency of the other country will, upon request, arrange for the examination at the expense of the agency requesting the examination.

4. The liaison agency of one Contracting State shall reimburse amounts owed under paragraphs 1 or 3 of this Article upon presentation of a statement of expenses by the liaison agency of the other Contracting State.

In order to receive reimbursement for the cost of administrative assistance, the liaison agency which provides the assistance must furnish the requesting agency with a detailed statement of expenses.

Article 8

This Administrative Arrangement shall enter into force on the date of entry into force of the Agreement and shall have the same period of validity.

The Administrative Arrangement will enter into force on the same date as the Agreement and will remain in effect for the same period as the Agreement.

DONE at Copenhagen on June 13, 2007, in duplicate in the English and Danish languages, the two texts being equally authentic.

For the Competent Authority of the United States of America:

James P. Cain

For the Competent Authority of the Kingdom of Denmark:

Eva Kjer Hansen

The Administrative Arrangement was signed on June 13, 2007, in Copenhagen by James P. Cain, the U.S. Ambassador to Denmark, and the Danish Minister for Social Affairs, Eva Kjer Hansen.

REPORT TO CONGRESS
TO ACCOMPANY THE SOCIAL SECURITY AGREEMENT
BETWEEN THE UNITED STATES AND DENMARK

I. INTRODUCTION

The social security agreement between the United States and Denmark is intended to provide limited coordination of the old-age, survivors and disability insurance (OASDI) programs of the two countries. The agreement is similar in content and objective to social security agreements already in force between the United States and 21 other countries, including Australia, Canada, Chile, Japan, South Korea and most of Western Europe. U.S. social security agreements are negotiated under authority of section 233 of the Social Security Act.

Like earlier U.S. agreements, the U.S.-Danish agreement has two main purposes. First, it would eliminate dual coverage and taxation of the same work, the situation that occurs when a person from one country works in the other country and is required to pay taxes to both countries on the same earnings. The agreement includes rules that assign a worker's coverage and tax liability to just one country. Second, the agreement would help fill gaps in social security benefit protection for workers who divide their careers between the two countries. Under the agreement, it would be possible for workers and their family members who would not otherwise qualify for benefits to qualify for partial U.S. or Danish benefits based on combined work credits from both countries.

The U.S.-Danish agreement consists of two separate instruments: (1) a principal agreement setting forth the basic rules for coordinating the two countries' systems; and (2) an administrative arrangement establishing policies and procedures to implement the principal agreement. These two documents, which were signed by representatives of the U.S. and Danish Governments on June 13, 2007, are now being transmitted to Congress for review in accordance with section 233(e) of the Social Security Act.

Accompanying this report are paragraph-by-paragraph explanations of the provisions of the principal agreement (Annex A) and related administrative arrangement (Annex B). A report required by section 233(e)(1) of the Social Security Act on the effect of the agreement on income and expenditures of the U.S. Social Security program and the number of individuals affected by the agreement is also included (Annex C).

II. STATUTORY REQUIREMENTS

Section 233(c)(1) of the Social Security Act requires that international agreements concluded pursuant to that section provide for the elimination of dual coverage of the same work under the social security systems of the United States and the other country party to the agreement, and for combining credits earned by a worker under the two systems for benefit eligibility purposes. In addition, the law stipulates that when eligibility for U.S. Social Security benefits is established on the basis of combined

credits, the amount of the U.S. benefit payable must be based on the proportion of the worker's periods of coverage completed under title II of the Social Security Act. The U.S.-Danish agreement includes these required provisions.

III. COVERAGE PROVISIONS

In conformity with section 233(c)(1)(B) of the Social Security Act, Article 6 of the principal agreement sets forth rules designed to eliminate dual coverage and taxation of the same work under the U.S. and Danish systems.

A. Rules Governing Employees

The rules that apply to employed persons would generally eliminate dual coverage under the laws of the United States and Denmark by maintaining an employee's coverage under the laws of the country where the work is performed and exempting the employee from compulsory coverage under the laws of the other country.

Special rules would apply, however, for employees who are transferred by their employer in one country to work in the other country for a temporary period. In this situation, an employee who was covered in one country before the transfer would continue to be covered under that country's laws and would be exempt from coverage in the host country. Thus, a person working for a U.S. employer who is temporarily transferred by that employer to Denmark would only be covered under and pay contributions to the U.S. Social Security program, and the employer and employee would be exempt from Danish social security and health insurance contribution requirements.

Other rules set forth in the agreement would apply to persons employed by the Governments of the two countries and to persons employed in international air and ship transportation.

B. Rules Governing Self-Employed Persons

Article 6 also contains rules applicable to persons whose earnings from self-employment would be subject to compulsory coverage and contributions under the laws of both countries. Under these rules, a self-employed resident of Denmark would be subject only to Danish laws, while a self-employed U.S. resident would be subject only to U.S. laws.

IV. BENEFIT PROVISIONS

Articles 7 and 8 of the principal agreement establish the basic rules for determining entitlement to and the amount of U.S. and Danish benefits for persons who have worked in both countries. These benefit provisions are included pursuant to sections 233(c)(1)(A) and (C) of the Social Security Act.

A. Provisions Applicable to the United States

1. Totalization of Periods of Coverage

Under the rules that apply to the United States, if a worker has credit for at least 6 quarters of coverage under the U.S. Social Security program but not enough credits for the worker or the survivor of a deceased worker to qualify for benefits, the worker's coverage credits from both the United States and Denmark could be totalized (i.e., combined) to permit the applicant to qualify for a partial U.S. benefit. Since periods of coverage under the Danish social security system are measured in terms of months, the United States would credit one quarter of coverage for every three months of Danish coverage in a calendar year. The United States would not, however, credit months of coverage under Danish law if they coincide with quarters of coverage already credited under the U.S. system.

2. Computation of U.S. Totalization Benefit Amounts

The amount of a U.S. benefit for which a person may qualify based on totalized periods of coverage depends on both the duration of the worker's coverage under the U.S. Social Security system and the level of his or her earnings. A detailed description of the Totalization benefit computation procedure is contained in regulations of the Social Security Administration (20 CFR 404.1918). The first step in the procedure is to compute a theoretical primary insurance amount (PIA) as though the worker had worked a full coverage lifetime (i.e., a full career) under U.S. Social Security at the same earnings level as during his or her actual periods of U.S. covered work. The theoretical PIA is then prorated to reflect the proportion of a coverage lifetime the worker completed under the U.S. program. A coverage lifetime is defined in the regulations as the number of the worker's benefit computation years, i.e., the years which must be used in determining a worker's average earnings under the regular U.S. national computation method.

B. Provisions Applicable to Denmark

1. Danish Benefits

The Danish social security system is a mixture of universal, means-tested and contributory programs. It includes a two-tier, compulsory pension program, as well as a third tier of voluntary programs. The first tier of the Danish pension program, which is called the Folkepension in Danish and "Social Pension" in English, is a non-contributory program that covers all residents of Denmark. Social Pension benefits are paid in flat-rate amounts that are prorated according to the number of years of Danish residence. The second tier of the pension program includes two earnings-related programs known as the Labour Market Supplementary Pension (ATP) and the Special Pension

Savings Scheme (SP). Enacted in 1964, the ATP is a contributory employment-related pension program that covers all employees in Denmark between the ages of 16 and 65 who are permanently employed at least 9 hours per week. The SP was enacted in 1998 and is a compulsory program under which employees, the self-employed, and some groups of Social Pension recipients (those receiving benefits due to illness, unemployment, or income support) pay 1 percent of their gross income for pension savings. The agreement only affects entitlement to Social Pension benefits.

2. Danish Benefits under the Agreement

Under Danish national law, Danish nationals can qualify for Danish Social Pension benefits provided they have resided in Denmark for 3 years. However, foreign nationals must have resided in Denmark for at least 10 years, five of which immediately precede application, to qualify for the same benefits. Under the agreement, these requirements would be reduced for U.S. nationals. The agreement provides that U.S. nationals may qualify for Danish Social Pension benefits on the same, more favorable, basis as a Danish national, if the person has worked in Denmark for at least 12 months.

C. Benefit Portability

Section 233(c)(2) of the Social Security Act permits agreements to contain provisions suspending the application of the alien nonpayment provisions of the Social Security Act (section 202(t)) for persons residing in a foreign country with which the United States has an agreement in force. The U.S.-Danish agreement would provide an exemption from these nonpayment provisions for insured persons and their dependents or survivors, regardless of their citizenship, if they reside in Denmark.

The agreement also includes a provision that can help overcome certain portability restrictions in Danish law. Under the agreement, persons who are resident or physically present in the United States and who are U.S. citizens, citizens of Denmark or another European Union member State, stateless persons or refugees and their dependents and survivors will be entitled to receive Danish social security benefits without restriction.

V. OTHER PROVISIONS

Section 233(c)(4) of the Social Security Act authorizes agreements to contain other provisions not inconsistent with title II of the Act which are appropriate to carry out the purposes of the agreements. In accordance with this provision, the principal agreement and administrative arrangement contain a number of articles designed to permit the United States and Denmark to render free or reimbursable assistance to the other country in implementing the agreement.

SOCIAL SECURITY

MEMORANDUM

Date: July 25, 2007 Refer To: TCC

To: Stephen C. Goss, Chief Actuary

From: Chris Chaplain, Actuary
Nettie Barrick, Actuary

Subject: Estimated Effects of a Potential Totalization Agreement with Denmark—**INFORMATION**

This memorandum and the attached tables present estimates of the effects of implementing a potential totalization agreement with Denmark assuming an effective date of October 1, 2008. Table 1 shows the increases in program costs to the Social Security systems of the United States and Denmark that are estimated to occur under the potential agreement for fiscal years 2009 through 2016. In each case, these program costs arise under the respective systems due to: (1) benefit payments that become payable solely because of the agreement, and (2) tax contributions by temporary foreign workers that would be eliminated under the agreement.

Table 2 shows estimates of the number of persons who would be receiving "totalized" benefits from each system, as well as the number of temporary foreign workers in the respective countries who would become exempt from taxation by the local Social Security system. Under the agreement, U.S. workers working for a U.S. firm in Denmark for a period expected to last 5 years or less would pay Social Security taxes only to the United States. Danish workers working for a Danish firm in the U.S. for a period expected to last 3 years or less would pay Social Security taxes only to the Danish system. Thus, taxes paid by these workers to the Social Security system of the other country would be eliminated under the agreement. See the section "Additional Discussion of Effects Related to Reduction in Contributions to the Danish Social Security System" for additional discussion related to this aspect of the estimate.

The estimates shown in the tables are based on the intermediate set of assumptions of the 2007 OASDI Trustees Report. The exchange rate used in these estimates was 5.54 Kroner per U.S. dollar, the exchange rate as of June 1, 2007. The average exchange rate over the past 5 years is about 6.2 Kroner per U.S. dollar, with a low of about 5.4 Kroner per U.S. dollar and a high of about 7.7 Kroner per U.S. dollar.

It should be noted that these estimates are subject to considerable uncertainty. Many of the estimates are based on limited data for Denmark and limited data relating to other countries for which totalization agreements already exist. For example, to estimate the numbers of totalized

beneficiaries under the U.S. Social Security system that would result from an agreement with Denmark, we used regression analysis for 16 of the existing agreement countries[1] based on immigration data, emigration data, and numbers of nonimmigrant visas issued from each country to the U.S. roughly 30 years ago. This analysis yielded an estimate of about 1,111 totalized beneficiaries under the U.S. Social Security system at the end of the 5th year of the potential agreement with Denmark. For 9 of these existing-agreement countries, the predicted number of beneficiaries from the regression was higher than the actual number, by an average of about 36 percent of the predicted value. For 7 of these existing-agreement countries, the predicted number of beneficiaries from the regression was lower than the actual number, by an average of about 58 percent. Therefore, the actual number of OASDI beneficiaries for Denmark agreement would be about 713 at the end of the 5th year if it reflected the average relationship for countries with fewer beneficiaries than suggested by the regression analysis, and would be about 1,752 if it reflected the average relationship for countries with more beneficiaries than suggested by the regression.

Additional Discussion of Benefit Estimates

The totalized OASDI beneficiary estimates reflect an estimated small number of alien dependents and survivors who do not meet the 5-year U.S. residency requirement and would otherwise not receive Social Security benefits under current policy, but would begin receiving benefits under a totalization agreement.

Additional Discussion of Effects Related to Reduction in Contributions to the Danish Social Security System

For many totalization agreements, foreign workers working for a foreign firm in the other country for a period of *more* than 5 years would continue to pay Social Security tax only to the country where the work is performed, as opposed to continuing to pay tax only to the originating country. We have assumed, for the purpose of our totalization estimates, that the numbers of such longer-term workers are relatively small. However, in the case of the Danish agreement, this time period is 3 years for Danish workers. That is, Danish workers working for a Danish firm in the U.S. for a period expected to last 3 years or less would pay Social Security taxes only to the Danish system. If such Danish workers worked in the U.S. for *more* than 3 years, they would instead pay taxes only to the U.S. system (where the work is performed). Therefore, our estimates reflect that a fraction of temporary Danish workers would work in the U.S. from 3 to 5 years, which would represent lost contributions to the Danish system, not to the U.S. system.

[1] We excluded 5 totalization agreement countries from the analysis—Australia and Japan because the agreements have not been in effect long enough to provide meaningful data, South Korea because work before 1986 in South Korea would not be counted as coverage in determining eligibility for totalized benefits, Luxembourg because of lack of data, and Canada because it is a border country with emigrant and immigrant patterns that would likely vary widely from those of Denmark.

U.S. workers working temporarily for a U.S. firm in Denmark would no longer have to make contributions to the Danish Social Security system. One such contribution is to Denmark's Labor Market Supplementary Pension (known as ATP). The contribution amount, rather than a percentage of wages, is set at a flat amount based on monthly hours worked. For 2007, the total employee-employer contribution for those working at least 117 hours a month is set at about 224 Kroner per month (about $40 per month or $484 per year in U.S. dollars). However, the flat contribution amount is increased only at irregular intervals. The most recent increases have occurred in 1989, 1992, and 1996. For the purpose of this estimate, we assumed that ATP contributions after 2007 would be increased by changes in SSA's average wage index for 2 years prior, the most recent year for which actual wage data is available, compared to the index for 2005. For example, the 2010 ATP contribution amount would equal the 2007 ATP amount multiplied by the projected change in SSA's average wage index from 2005 to 2008, based on the intermediate assumptions of the 2007 Trustees Report. This assumption is consistent with the supposition that the ad hoc changes in the contribution amount would, in average, increase at the same level as SSA's average wage index.

Additional Discussion of Effects Related to Denmark's Health Insurance, Sickness/Maternity, and Unemployment Programs

The Danish health insurance system is funded from government revenues, and not from any earmarked employee-employer contributions. Therefore, a potential totalization agreement between the U.S. and Denmark would have no direct financial effect on the Danish health insurance system. In contrast, for the U.S. system, reductions in Medicare (HI) contributions would result from an agreement, because of the removal of double taxation for Danish workers working temporarily for a Danish firm in the U.S. Table 1 displays this estimated financial effect to the U.S. Medicare system.

A portion of the 8-percent Labour Market Fund Contribution is used to pay cash *sickness and maternity* benefits under the Danish system. Under a totalization agreement, such contributions would no longer be made by U.S. workers working temporarily for a U.S. firm in Denmark, which represent a loss to the Danish system as reflected in Table 1. The value of any foregone benefits obtained under Denmark's sickness/maternity programs would represent a gain to the Danish system. Our estimates assume no such benefit foregone under these systems, as explained below. Under the Danish sickness program, stipends are paid weekly up to a maximum of 52 weeks within any 18-month period. We believe that most U.S. employers would still continue to pay earnings to people incapacitated due to sickness, such that no Danish sickness benefits would be paid to such workers. Under the Danish system's "maternity" program, cash benefits are paid for a maximum of 52 weeks including from 4 weeks before the expected date of childbirth if there is a loss of earnings during these periods. For the maternity program, we believe that this would apply very rarely for U.S. temporary workers in Denmark, in part because many employers would likely pay earnings during the periods of cash benefits under the Danish system.

A portion of the 8-percent Labour Market Fund Contribution is also used to pay *unemployment* benefits under the Danish system. We assume that the value of foregone unemployment benefits under Denmark's system is zero. Under Denmark's unemployment program, benefits are paid for up to 4 years. However, since we are dealing with temporary U.S. workers in Denmark affected by a potential totalization agreement, it would be unlikely the workers would be removed from their jobs, and even if they were, the workers would most likely move back to the United States and not look for other work in Denmark.

Long-Range Financial Effects

In estimating the long-range financial effects on the OASDI program of a totalization agreement between the U.S. and Denmark, we considered both totalized benefit payments under the OASDI program and reduction in OASDI tax contributions. Reductions in U.S. Social Security contributions would arise predominantly from Danish temporary workers in the U.S. working for a firm based in Denmark for a period of 3 years or less, who would no longer pay U.S. Social Security taxes under a totalization agreement.

Totalized OASDI beneficiaries would consist of three primary groups. The first group is Danish non-immigrants who work in the U.S. for a period of less than 10 years. These workers would be covered by the U.S. Social Security system (unless they are workers for a Danish firm sent to work in the U.S. for 3 years or less after a totalization agreement becomes effective), and may be eligible for U.S. totalized benefits when their work in Denmark is also considered. Second, legal immigrants (of a more permanent nature) from Denmark to the U.S. form another group of potential U.S. totalized beneficiaries. A portion of these immigrants, especially those who immigrate later in their working careers and work in the U.S. for less than 10 years, may become eligible for U.S. totalized benefits. Emigrants from the U.S. to Denmark (Danish-born or U.S. born) form the third group of individuals who could be eligible for totalized benefits, especially those who emigrate relatively early in their working careers and work in the U.S. for less than 10 years.

The combined effects of these groups of individuals on the OASDI program under the potential totalization agreement between the U.S. and Denmark would decrease the long-range (75-year) actuarial balance of the OASDI program by an amount that is estimated to be negligible (that is, by less than 0.005 percent of taxable payroll).

Table 3 displays the components of the estimated net cost to the OASDI Trust Funds for years 2007 through 2081 on a "constant dollar" basis, i.e., indexing the amounts back to the year 2007 by projected changes in the CPI. In addition, the table displays total estimated OASDI net costs on an annual and cumulative present value basis, i.e., indexing the amounts back to January 1, 2007 by projected interest rates earned by the OASDI Trust Funds on special-issue U.S. Government bonds.

As shown in Table 3, the total present value of the net additional cost to the OASDI system for the 75-year period (2007 through 2081) is projected at about $290 million. This represents an increase of much less than the roughly $13 billion (total net cost in present-value terms over the 75 years) needed for the impact on the long-range OASDI actuarial balance to be non-negligible.

Chris Chaplain

Chris Chaplain

Nettie J. Barrick

Nettie Barrick

Attachments: 2

Table 1.--Estimated additional program costs for the U.S. and Denmark Social Security (and other) systems under a potential totalization agreement between the two countries, fiscal years 2009-2016
(In millions)

	Fiscal year							
	2009	2010	2011	2012	2013	2014	2015	2016
Financial Effects for the U.S. Social Security system:								
Increase in OASDI benefit payments	1/	$1	$1	$2	$2	$3	$3	$4
Reduction in OASDI tax contributions	$4	4	4	4	4	5	5	5
Net Additional OASDI cost	4	5	5	6	7	8	8	9
Net cost to the Medicare system	1	1	1	1	1	1	1	1
Additional net costs to the Social Security System of Denmark:								
Increase in benefit payments	1	2	5	7	10	12	14	15
Reduction in RSDI tax contributions	4	4	4	4	5	5	5	5
Total	4	6	9	12	14	17	19	20

1/ Less than $500,000.

Notes:
1. Estimates assume an agreement effective date of October 1, 2008.
2. The estimates are based on the intermediate assumptions of the 2007 Trustees Report.
3. Totals may not equal the sums of the components due to rounding.
4. Estimates are in U.S. dollars. We assumed an approximate exchange rate of 5.54 Danish Kroner per U.S. dollar.

Social Security Administration
Office of the Chief Actuary
July 25, 2007

Table 2.—Estimated number of persons who would be affected by a potential totalization agreement between the United States and Denmark, fiscal years 2009-2016
(In thousands)

	Fiscal year							
	2009	2010	2011	2012	2013	2014	2015	2016
Number of persons receiving a totalized OASDI benefit based in part on employment in Denmark under the potential agreement (in current-pay status at mid-year)	.1	.3	.6	.8	1.0	1.2	1.3	1.4
Number of persons receiving a totalized Danish benefit based in part on employment in the United States under the potential agreement (in current-pay status at mid-year)	.2	.6	1.1	1.7	2.1	2.5	2.7	2.9
Number of persons receiving both a totalized OASDI benefit and a totalized benefit from Denmark (in current-pay status at mid-year)	1/	.1	.1	.2	.2	.2	.3	.3
Number of residents of Denmark, or Danish citizens living outside the U.S., who would now be able to receive OASDI dependent or survivor benefits because the 5-year residency requirement would no longer apply (in current-pay status at mid-year)	1/	1/	1/	1/	1/	1/	1/	1/
Number of U.S. employees in Denmark who, along with their employers, would no longer make tax contributions during the year to the Social Security system of Denmark	.9	.9	.9	.9	.9	.9	.9	.9
Number of Danish employees in the U.S who, along with their employers, would no longer make tax contributions during the year to the OASDHI trust funds	.4	.5	.5	.5	.5	.5	.5	.5

1/ Fewer than 50.

Notes:
1. Estimates assume an agreement effective date of October 1, 2008.
2. The estimates are based on the intermediate assumptions of the 2007 Trustees Report.

Social Security Administration
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Table 3--Projected Net OASDI Cost of Implementing Proposed Totalization Agreement Between U.S. and Denmark

Year	Additional OASDI Net Benefits For Year 1/	Change in OASDI Payroll Taxes For Year	Additional OASDI Net Cost For Year 2/	Additional OASDI Net Cost For Year 2/	Cumulative Additional OASDI Net Cost 2/
	(Billions of Constant 2007$)			(Billions of $, Present Value as of 1-1-07)	
2007	0.000	0.000	0.000	0.000	0.00
2008	0.000	0.000	0.000	0.000	0.00
2009	0.000	-0.004	0.004	0.004	0.00
2010	0.001	-0.004	0.004	0.004	0.01
2011	0.001	-0.004	0.005	0.004	0.01
2012	0.002	-0.004	0.006	0.005	0.02
2013	0.002	-0.004	0.006	0.005	0.02
2014	0.002	-0.004	0.006	0.005	0.03
2015	0.003	-0.004	0.007	0.005	0.03
2016	0.003	-0.004	0.007	0.005	0.04
2017	0.003	-0.004	0.007	0.005	0.04
2018	0.003	-0.004	0.007	0.005	0.05
2019	0.003	-0.004	0.007	0.005	0.05
2020	0.003	-0.004	0.008	0.005	0.06
2021	0.003	-0.004	0.008	0.005	0.06
2022	0.004	-0.004	0.008	0.005	0.07
2023	0.004	-0.004	0.008	0.005	0.07
2024	0.004	-0.005	0.008	0.005	0.08
2025	0.004	-0.005	0.009	0.005	0.08
2026	0.004	-0.005	0.009	0.005	0.09
2027	0.004	-0.005	0.009	0.005	0.09
2028	0.004	-0.005	0.009	0.005	0.10
2029	0.004	-0.005	0.009	0.005	0.10
2030	0.005	-0.005	0.010	0.005	0.11
2031	0.005	-0.005	0.010	0.005	0.11
2032	0.005	-0.005	0.010	0.005	0.12
2033	0.005	-0.005	0.010	0.005	0.12
2034	0.005	-0.005	0.010	0.005	0.13
2035	0.005	-0.005	0.010	0.005	0.13
2036	0.005	-0.005	0.011	0.005	0.14
2037	0.005	-0.005	0.011	0.004	0.14
2038	0.005	-0.006	0.011	0.004	0.15
2039	0.005	-0.006	0.011	0.004	0.15
2040	0.006	-0.006	0.011	0.004	0.15
2041	0.006	-0.006	0.011	0.004	0.16
2042	0.006	-0.006	0.012	0.004	0.16
2043	0.006	-0.006	0.012	0.004	0.17
2044	0.006	-0.006	0.012	0.004	0.17
2045	0.006	-0.006	0.012	0.004	0.17
2046	0.006	-0.006	0.012	0.004	0.18
2047	0.006	-0.006	0.012	0.004	0.18
2048	0.006	-0.006	0.013	0.004	0.19
2049	0.006	-0.006	0.013	0.004	0.19
2050	0.006	-0.007	0.013	0.004	0.19
2051	0.006	-0.007	0.013	0.004	0.20
2052	0.007	-0.007	0.013	0.004	0.20
2053	0.007	-0.007	0.013	0.004	0.20
2054	0.007	-0.007	0.014	0.004	0.21
2055	0.007	-0.007	0.014	0.003	0.21
2056	0.007	-0.007	0.014	0.003	0.21
2057	0.007	-0.007	0.014	0.003	0.22
2058	0.007	-0.007	0.015	0.003	0.22
2059	0.007	-0.007	0.015	0.003	0.22
2060	0.007	-0.008	0.015	0.003	0.23
2061	0.008	-0.008	0.015	0.003	0.23
2062	0.008	-0.008	0.015	0.003	0.23
2063	0.008	-0.008	0.016	0.003	0.24
2064	0.008	-0.008	0.016	0.003	0.24
2065	0.008	-0.008	0.016	0.003	0.24
2066	0.008	-0.008	0.016	0.003	0.25
2067	0.008	-0.008	0.017	0.003	0.25
2068	0.008	-0.008	0.017	0.003	0.25
2069	0.009	-0.009	0.017	0.003	0.26
2070	0.009	-0.009	0.017	0.003	0.26
2071	0.009	-0.009	0.018	0.003	0.26
2072	0.009	-0.009	0.018	0.003	0.26
2073	0.009	-0.009	0.018	0.003	0.27
2074	0.009	-0.009	0.018	0.003	0.27
2075	0.009	-0.009	0.019	0.003	0.27
2076	0.010	-0.009	0.019	0.003	0.27
2077	0.010	-0.009	0.019	0.003	0.28
2078	0.010	-0.010	0.020	0.003	0.28
2079	0.010	-0.010	0.020	0.002	0.28
2080	0.010	-0.010	0.020	0.002	0.28
2081	0.010	-0.010	0.020	0.002	0.29

Based on Intermediate Assumptions of the 2007 Trustees Report.
1/ Additional benefits less revenue to OASDI from taxes on benefits.
2/ Additional net benefit payments minus change in payroll-tax revenue.

Social Security Administration
Office of the Chief Actuary
July 25, 2007