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AGREEMENT WITH KOREA ON SOCIAL SECURITY

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

AN AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF KOREA ON SOCIAL SECURITY, WHICH CONSISTS OF TWO SEPARATE INSTRUMENTS—A PRINCIPAL AGREEMENT AND AN ADMINISTRATIVE AGREEMENT, PURSUANT TO 42 U.S.C. 433(e)(1)

MAY 23, 2000.—Message and accompanying papers referred to the Committee on Ways and Means and ordered to be printed.

U.S. GOVERNMENT PRINTING OFFICE
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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)) (the "Act"), I transmit herewith the Agreement Between the United States of America and the Republic of Korea on Social Security, which consists of two separate instruments: a principal agreement and an administrative arrangement. The Agreement was signed at Washington on March 13, 2000.

The United States-Korean Agreement is similar in objective to the social security agreements already in force with Austria, Belgium, Canada, Finland, France, Germany, Greece, Ireland, Italy, 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-Korean 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) of the Act.

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. Annexed to this report is the report required by section 233(e)(1) of the Social Security Act, a report 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. The Department of State and the Social Security Administration have recommended the Agreement and related documents to me.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 22, 2000.*

AGREEMENT
BETWEEN THE UNITED STATES OF AMERICA
AND
THE REPUBLIC OF KOREA
ON SOCIAL SECURITY

The United States of America and

the Republic of Korea (hereinafter referred to as the "Contracting States"),

Being desirous of regulating the relationship between their two countries in the field of Social Security,

Have agreed as follows:

PART I

General Provisions

Article 1

1. For the purpose of this Agreement:

   (a) "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

   as regards Korea, a national of the Republic of Korea as defined in the Nationality Law, as amended;

   (b) "Laws" means the laws and regulations specified in Article 2 of this Agreement;

   (c) "Competent Authority" means,

   as regards the United States, the Commissioner of Social Security, and

   as regards Korea, the Minister of Health and Welfare or the Minister of Labor as the case may require;

(d) "Agency" means,

as regards the United States, the Social Security Administration, and

as regards Korea, the National Pension Corporation or the Korean Labor Welfare Corporation as the case may require;

(e) "Period of coverage" means a period of payment of contributions or a period of earnings from employment or self-employment, as defined 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; and

(f) "Benefit" means any benefit provided for in the laws specified in Article 2 of this Agreement.

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

Article 2

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

(a) As regards Korea,

(i) the National Pension Law and the enforcement rules and regulations applicable thereto;

(ii) with regard to Part II only, the Industrial Accident Compensation Insurance Law and the enforcement rules and regulations applicable thereto;

(b) 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.

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 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. This Agreement shall also apply to future laws which amend or supplement the laws specified in paragraph 1 of this Article.

Article 3

1. A person who is or has been subject to the laws of one Contracting State and who resides within the territory of the other Contracting State shall, together with his dependents, receive equal treatment with nationals of the other Contracting State in the application of the laws of the other Contracting State regarding the eligibility for and the payment of benefits.

2. Unless otherwise provided in this Agreement, any provision of the laws of one Contracting State which restricts entitlement to or payment of cash benefits solely because the person resides outside or is absent from the territory of that Contracting State shall not be applicable to the persons who reside in the territory of the other Contracting State.

PART II

Provisions on Coverage

Article 4

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

2. Where a person who is normally employed in the territory of one Contracting State by an employer having a place of business in that territory is sent by that employer to work for the same employer in the territory of the other Contracting State, the person shall remain

subject to the laws of only the first Contracting State as if the person were employed in its territory, provided that the period of employment in the territory of the other Contracting State is not expected to exceed 5 years. For purposes of applying the preceding sentence, an employer and an affiliated or subsidiary company of the employer (as defined under the laws of the Contracting State from which the person was sent) shall be considered one and the same, provided that the employment in the territory of the other Contracting State would have been covered under the laws of the Contracting State from which the person was sent in the absence of this Agreement.

3. Paragraph 2 of this Article shall apply where a person who has been sent by his employer from the territory of one Contracting State to the territory of a third State is subsequently sent by that employer from the territory of the third State to the territory of the other Contracting State.

4. A self-employed person who resides within the territory of one Contracting State shall be subject to the laws of only that State.

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.

6. A person who would otherwise be compulsorily covered under the laws of both Contracting States with respect to employment as an officer or member of a crew on a ship or aircraft shall be subject to the laws of only the Contracting State in whose territory the person resides.

7. (a) This Agreement shall not affect the provisions of the Vienna Convention on Diplomatic Relations of April 18, 1961, of the Vienna Convention on Consular Relations of April 24, 1963, or of the Consular Convention between the United States and Korea of January 8, 1963.

   (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 the preceding subparagraph shall be subject to the laws of only the first Contracting State. For the purpose of this paragraph, employment by the Government of a Contracting State includes employment by an instrumentality thereof.

(c) As regards Korea, employment by the Government of Korea includes employment by Korea's local governments.

8. 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.

PART III

Provisions on Benefits

Article 5

The following provisions shall apply to Korea:

1. If a person is not eligible for old-age, survivors or disability benefits under Korean laws based on periods of coverage credited exclusively under Korean laws, the Agency of Korea shall take into account the person's periods of coverage credited under United States laws, insofar as they do not coincide, for the purpose of establishing the person's entitlement to benefits under Korean laws. The preceding sentence shall not apply for purposes of establishing entitlement to old-age, survivors or disability benefits unless the person has completed at least 18 months of coverage under Korean laws.

2. To obtain a disability benefit or survivors benefit, the requirement of Korean laws that a person be covered when the insured event occurs shall be considered to have been met if the person is insured for a benefit under United States laws or has credit for at least four quarters of coverage under United States laws during a period of eight calendar quarters ending with the calendar quarter in which the insured event occurs according to Korean laws.

3. In determining eligibility for benefits under this Article, the Agency of Korea shall credit three months of coverage for every quarter of coverage certified by the Agency of the United States.

4. Where periods of coverage under United States laws are taken into account to establish eligibility for benefits under Korean laws in accordance with this Article, the benefit due shall be determined as follows:

(a) The Agency of Korea shall first compute a Basic Pension Amount equal to the amount that would have been payable to the person if all the periods of coverage credited under the laws of both Contracting States had been completed under Korean laws. To determine the Basic Pension Amount, the Agency of Korea shall take into account the person's average standard monthly income while covered under Korean laws.

(b) The Agency of Korea shall calculate the partial benefit to be paid in accordance with Korean laws based on the Basic Pension Amount calculated according to the preceding subparagraph, in proportion to the ratio between the duration of the periods of coverage taken into consideration under its own laws and the total duration of the periods of coverage taken into consideration under the laws of both Contracting States.

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

6. (a) United States nationals shall receive equal treatment with Korean nationals in the application of provisions of Korean laws regarding lump-sum refunds of contributions, regardless of when the contributions were paid. Notwithstanding paragraph 1 of Article 3, lump-sum refunds of contributions shall be paid to nationals of a State other than the Contracting States in accordance with Korean laws.

(b) The periods of coverage for which contributions have been refunded in lump-sum shall not be certified by the Agency of Korea as creditable in totalizing periods to determine entitlement to a benefit.

Article 6

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 which are credited under Korean laws and which do not coincide with periods of coverage already credited under United States laws.

2. 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 three months of coverage certified by the Agency of Korea; however, no quarter of coverage shall be credited for any calendar quarter 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.

3. 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.

4. 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.

PART IV

Miscellaneous Provisions

Article 7

The Competent Authorities of the two Contracting States shall:

(a) Conclude 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 application 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 application of this Agreement.

Article 8

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 9

1. In accordance with measures to be agreed upon, the Competent Authorities and Agencies of the two Contracting States shall communicate to each other any information necessary for the application of this Agreement.

2. 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 one Contracting State shall be governed by the national statutes of that Contracting State for the protection of privacy and confidentiality of personal data.

Article 10

1. Where the laws of one Contracting State provide that any document which is submitted to the Competent Authority or the 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 the Agency of the other Contracting State in the application of this Agreement.

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

3. Copies of documents which are certified as true and exact copies by the Agency of one Contracting State shall be accepted as true and exact copies by the 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 11

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. The correspondence may be in the official language of either Contracting State.

2. An application or document may not be rejected by the Competent Authority or Agency of one Contracting State because it is in the official language of the other Contracting State.

Article 12

1. A written application for benefits filed with the Agency of one Contracting State shall protect the rights of the claimants 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.

2. If an applicant has filed a written application for benefits with the 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 rights of the claimants under the laws of the other Contracting State if the applicant provides information at the time 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 13

1. A written appeal of a determination made by the Agency of one Contracting State may be validly filed with the 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.

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

Article 14

In any case to which the provisions of Article 13 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 7(a) of this Agreement and transmit it without delay to the liaison agency of the other Contracting State.

Article 15

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

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 ensure the transfer of sums owed by either Contracting State under this Agreement.

Article 16

Any disagreement regarding the interpretation or application of this Agreement shall be resolved by consultation between the Contracting States.

Article 17

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.

PART V

Transitional and Final Provisions

Article 18

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

2. In determining the right to benefits under this Agreement, consideration shall be given to periods of coverage and other events which occurred before the entry into force of this Agreement. However, 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.

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

4. The application 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.

5. In applying paragraph 2 of Article 4 in the case of persons who were sent to the territory of a Contracting State prior to the date of entry into force of this Agreement, the periods of employment referred to in that paragraph shall be considered to begin on that date.

Article 19

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.

Article 20

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 either Contracting State to the other Contracting State.

2. If this Agreement is terminated, rights regarding entitlement to or payment of benefits acquired under it shall be retained. The Contracting States shall make arrangements dealing with rights in the process of being acquired.

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

DONE in duplicate at WASHINGTON on MARCH 13, 2000 in the English and Korean languages, the two texts being equally authentic.

FOR THE UNITED STATES OF AMERICA

Madeleine Albright

FOR THE REPUBLIC OF KOREA

ADMINISTRATIVE ARRANGEMENT FOR THE IMPLEMENTATION OF THE AGREEMENT ON SOCIAL SECURITY BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF KOREA

The Competent Authority of the United States of America and

the Competent Authorities of the Republic of Korea,

In conformity with Article 7(a) of the Agreement on Social Security between the United States of America and the Republic of Korea of March 13 2000 (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 2

1. The liaison agencies referred to in Article 7(a) of the Agreement shall be:

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

   (b) for Korea, the National Pension Corporation or the Korean Labor Welfare Corporation as the case may require.

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.

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 4 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.

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 Korea, by the National Pension Corporation.

3. The Agency of one Contracting State which issues a certificate referred to in paragraph 1 of this Article shall furnish a copy of the certificate to the liaison agency of the other Contracting State as needed by the Agency of the other Contracting State.

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.

2. The Agency of the Contracting State with which an application for benefits is first filed in accordance with Article 12 of the Agreement shall provide the liaison agency of the other Contracting State with such evidence and other information as may be required to complete action on the claim.

3. The Agency of one 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 that Contracting State with such evidence and other available information as may be required for it to complete action on the claim.

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

Article 5

When the Agency of Korea pays benefits in the currency of the United States, the conversion rate shall be the rate of exchange in effect on the day when the payment is made.

CHAPTER IV

Miscellaneous Provisions

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 7

1. Where administrative assistance is requested under Article 8 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 Agencies of the Contracting States. Where the Agency of one Contracting State requests administrative assistance from the Agency of the other Contracting State that would not be free of charge under Article 8 of the Agreement, the Agency of the other Contracting State shall inform the Agency of the first Contracting State that the requested assistance will not be free of charge and will only provide such assistance if both Agencies agree upon the time and manner of reimbursing the costs.

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.

3. Where the Agency of one 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.

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

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.

DONE in duplicate at Washington on March 15, 2000, in the English and Korean languages, the two texts being equally authentic.

ON BEHALF
OF THE COMPETENT AUTHORITY
OF THE UNITED STATES OF AMERICA

William G. Hatter

ON BEHALF
OF THE COMPETENT AUTHORITIES
OF THE REPUBLIC OF KOREA

REPORT TO CONGRESS
TO ACCOMPANY THE SOCIAL SECURITY AGREEMENT
BETWEEN THE UNITED STATES AND THE REPUBLIC OF KOREA

I. INTRODUCTION

The Social Security agreement between the United States and the Republic of Korea 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 17 other countries, including Canada and most of Western Europe. United States Social Security agreements are negotiated under authority of section 233 of the Social Security Act.

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

The U.S.-Korean agreement consists of two separate instruments: (1) a principal agreement setting forth the basic rules for coordinating the two countries' Social Security 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 Korean governments on March 13, 2000, 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 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.-Korean agreement includes these required provisions.

III. COVERAGE PROVISIONS

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

A. Rules Governing Employees

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

Special rules would apply, however, for employees who are temporarily transferred by their employer in one country to work in the other country for a period of five years or less. In this situation, an employee who was covered in one country before his or her transfer would continue to be covered under that country's system 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 Korea would only be covered under and pay contributions to the U.S. program, and the employer and employee would be relieved of the additional burden of paying Social Security contributions to the Korean program.

Other rules set forth in this Part 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

Part II 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 Korea will be subject only to Korean laws, while a U.S. resident will be subject only to U.S. laws.

IV. BENEFIT PROVISIONS

Part III of the principal agreement establishes the basic rules for determining entitlement to and the amount of U.S. and Korean 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 six quarters of coverage under the U.S. Social Security program but not enough credits to qualify for a retirement, survivors or disability benefit, the worker's coverage credits from both the United States and Korea could be totalized (i.e., combined) to permit him or her to qualify for a partial U.S. benefit. Since periods of coverage under the Korean Social Security system are measured in terms of months, the United States would credit one quarter of coverage for every three months of Korean coverage

in a calendar year. The United States would not, however, credit months of coverage under Korean 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 benefit amount 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 benefit 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 Korea

1. Korean Benefits

Korea provides old age, survivors, and disability benefits through a comprehensive social insurance program. In order to qualify for benefits, a worker must meet certain eligibility standards, including minimum length-of-coverage and recency-of-work requirements. Persons who qualify receive benefits that vary in amount according to the worker's average indexed earnings and length of coverage.

2. Totalization of Periods of Coverage

Under the agreement, a person who has not worked long enough or recently enough to qualify for old age, survivors, or disability benefits will be able to have his or her U.S. and Korean coverage credits combined to meet the applicable eligibility requirements. Where eligibility is established based on combined U.S. and Korean credits, Korea will compute a theoretical benefit amount as if the worker's U.S. periods of coverage had been completed under Korean law. To determine the amount actually payable, the theoretical amount will be prorated by multiplying it by the ratio of the periods of coverage credited under Korean law to the total periods credited in both countries.

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.

Korean nationals outside the United States, including those residing in the Republic of Korea, are already exempt from the nonpayment provisions of section 202(t)(1) in accordance with section 202(t)(2). However, citizens of certain other countries who reside in the Republic of Korea may not be exempt from the nonpayment provisions of the Social Security Act. The agreement, therefore, would provide an exemption from the nonpayment provisions of section 202(t)(1) for insured persons and their dependents or survivors, regardless of their citizenship, if they reside in the Republic of Korea.

Under section 202(t)(11), benefits generally may not be paid to nonresident aliens who first become eligible for title II dependent or survivor benefits after 1984, unless they satisfy certain U.S. residency requirements. Citizens or residents of a country with which the United States has an agreement in force pursuant to section 233 of the Social Security Act are exempt from the residence requirements. Once the U.S.-

Korean Social Security agreement enters into force, citizens or residents of the Republic of Korea will no longer be subject to this nonpayment provision.

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 Korea to render free or reimbursable assistance to the other country in implementing the agreement.

PRINCIPAL AGREEMENT

ANNOTATIONS AND COMMENTS

AGREEMENT
BETWEEN THE UNITED STATES OF AMERICA
AND
THE REPUBLIC OF KOREA
ON SOCIAL SECURITY

The United States of America and

the Republic of Korea (hereinafter referred to as the "Contracting States"),

Being desirous of regulating the relationship between their two countries in the field of Social Security,

Have agreed as follows:

The document is described as an "Agreement" with the understanding that it will enter into force for Korea as a formal treaty subject to National Assembly ratification 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

1. For the purpose of this Agreement:

(a) "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

Article 1 defines key terms used in the Agreement.

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.

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as regards Korea, a national of the Republic of Korea as defined in the Nationality Law, as amended;	A Korean national means any person who is accorded nationality by Korea, including, but not limited to, a person who carries a valid Korean passport or other valid identity document designating the person as a Korean national.
(b) "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.
(c) "Competent Authority" means, as regards the United States, the Commissioner of Social Security, and as regards Korea, the Minister of Health and Welfare or the Minister of Labor as the case may require;	"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.
(d) "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 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 Korea, the National Pension Corporation or the Korean Labor Welfare Corporation as the case may require;	The National Pension Corporation, the agency which administers the Korean old-age, survivors, and disability insurance program, includes a number of local and regional offices. Under the Agreement, each of these local and regional offices is included within the term "agency." The Korean Labor Welfare Corporation is also considered an agency since it is responsible for collecting the payroll taxes mandated by the Industrial Accident Compensation Insurance Law cited in Article 2.1.

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(c) "Period of coverage" means a period of payment of contributions or a period of earnings from employment or self-employment, as defined 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; and	The term "period of coverage" means any period which is credited under the laws of either country for purposes of determining benefit eligibility, including periods of covered employment and self-employment.
(f) "Benefit" means any benefit provided for in the laws specified in Article 2 of this Agreement.	The term "benefit" refers to old-age, survivors, and disability benefits provided under the Social Security laws of either country. The term "benefit" includes lump-sum payments payable under U.S. and Korean Social Security laws, but excludes special age-72 payments provided for certain uninsured persons under section 228 of the U.S. Social Security Act.
2. Any term not defined in this Article shall have the meaning assigned to it in the applicable laws.	Each country will assign to any undefined terms used in the Agreement the same meaning as they are given under its national laws.
Article 2	Article 2 specifies the laws to which the Agreement applies.
1. For the purpose of this Agreement, the applicable laws are:	
(a) As regards Korea,	
(i) the National Pension Law and the enforcement rules and regulations applicable thereto;	The National Pension Act (NPA) was implemented in 1988. It provides OASDI coverage for all workers age 18-59. Civil servants, military personnel and private school teachers are covered under separate systems and are excluded from NPA coverage.
(ii) with regard to Part II only, the Industrial Accident Compensation Insurance Law and the enforcement rules and regulations applicable thereto;	Korea's Industrial Accident Compensation Insurance Law is also included within the scope of the Agreement, but only for purposes of the provisions that eliminate dual Social Security coverage and taxation included in Part II. As a result, a worker who is exempt from Korean laws in

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(b) 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.

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 on Social Security that may be concluded between one Contracting State and a third State, or laws or regulations promulgated for their specific implementation.

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accordance with Part II of the Agreement, will be exempt, together with his or her employer, from paying Korean Social Security taxes for the old-age, survivors, and disability program, as well as the industrial accident program.

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 (section 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.

Although the Agreement does not apply to Medicare provisions, a worker who is subject only to Korean laws by virtue of Part II of the Agreement will be exempt not only from U.S. retirement, survivors and disability insurance contributions but also from health insurance contributions under the Federal Insurance Contributions Act (FICA) and the Self-Employment Contributions Act (SECA).

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

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3. This Agreement shall also apply to future laws which amend or supplement the laws specified in paragraph 1 of this Article.

Article 3

1. A person who is or has been subject to the laws of one Contracting State and who resides within the territory of the other Contracting State shall, together with his dependents, receive equal treatment with nationals of the other Contracting State in the application of the laws of the other Contracting State regarding the eligibility for and the payment of benefits.

2. Unless otherwise provided in this Agreement, any provision of the laws of one Contracting State which restricts entitlement to or payment of cash benefits solely because the person resides outside or is absent from the territory of that Contracting State shall not be applicable to the persons who reside in the territory of the other Contracting State.

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Article 2.3 makes clear that the Agreement will automatically apply to future laws that amend provisions of the Social Security laws set forth in Article 2.1.

Article 3.1 provides that the persons to whom the Agreement applies who reside in the United States or Korea will be accorded the same treatment under that country's Social Security laws as that country accords its own nationals.

Article 3.2 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 or receive those benefits during periods of residence in the other country. U.S. law already permits payment of benefits to U.S. and Korean nationals who reside in either country. This paragraph also permits the United States to pay certain third country nationals and their dependents who would otherwise be subject to the alien nonpayment provisions of section 202(t) of the Social Security Act during periods of residence in Korea.

In addition to the U.S. benefit portability guarantee provided for Korean residents in Article 3.2, the entry into force of the Agreement will also liberalize a restriction on exportation of U.S. dependents and survivors benefits that now applies to certain Korean citizens and residents. Under U.S. law, Social Security dependents and survivors benefits may not be paid to aliens who first become eligible after 1984 and who are outside the United States for more than 6 months unless they satisfy certain U.S. residency requirements or they are citizens or residents of a country with which the United States has an international Social Security agreement in force. Once the Agreement enters into force, Korean citizens and residents will be exempt from this payment restriction.

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PART II

Provisions on Coverage

Article 4

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

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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.

Article 4.1 establishes a general rule for eliminating dual Social Security coverage and contributions for persons employed in either the United States or Korea. Article 4.2 contains an exception to this general rule which applies in the case of employees sent by an employer in one country to work temporarily in the other country. Article 4.4 provides for the elimination of dual coverage in the case of self-employed persons. Article 4.6 precludes dual coverage that might otherwise occur for employees in international shipping and air transportation. Article 4.7 establishes rules applicable to persons employed in U.S. or Korean Government service.

Article 4.1 establishes a general territoriality rule which stipulates that ordinarily a person's employment in a country will be compulsorily covered by only that country. Thus, a person working in employment 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. Where a person who is normally employed in the territory of one Contracting State by an employer having a place of business in that territory is sent by that employer to work for the same employer in the territory of the other Contracting State, the person shall remain subject to the laws of only the first Contracting State as if the person were employed in its territory, provided that the period of employment in the territory of the other Contracting State is not expected to exceed 5 years. For purposes of applying the preceding sentence, an employer and an affiliated or subsidiary company of the employer (as defined under the laws of the Contracting State from which the person was sent) shall be considered one and the same, provided that the employment in the territory of the other Contracting State would have been covered under the laws of the Contracting State from which the person was sent in the absence of this Agreement.

3. Paragraph 2 of this Article shall apply where a person who has been sent by his employer from the territory of one Contracting State to the territory of a third State is subsequently sent by that employer from the territory of the third State to the territory of the other Contracting State.

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Under Article 4.2, an employee working for an employer located in the United States or Korea who is temporarily transferred to work in the other country for the same employer will continue to be covered by the Social Security system of the country from which the employee has been transferred. Ordinarily, this rule will apply only if the transfer is expected to last 5 years or less, but this limit may be extended if the Competent Authorities agree to a requested extension.

Article 4.2 also applies in the case of certain employees who are sent by their employer in one country to work for a subsidiary or other affiliate of that employer in the other country. 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 4.2, U.S. citizens or resident aliens who are sent by an American employer to work for an affiliated Korean company for 5 years or less will continue to be covered by the United States and exempt from Korean 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 one country to the other before the Agreement entered into force, any period of work before the Agreement's entry into force will be disregarded. (See Article 18.5.)

Under Article 4.3, the provisions of Article 4.2 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.

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4. A self-employed person who resides within the territory of one Contracting State shall be subject to the laws of only that State.	Article 4.4 eliminates dual coverage and contributions with respect to self-employment. It provides that self-employed Korean residents will be covered only under Korean laws and that self-employed U.S. residents will be covered only under U.S. laws. This provision will primarily affect self-employed U.S. citizens who work and reside in Korea. In the absence of an agreement, such persons would be covered under Korean law because they live and work in Korea, and would also be covered under U.S. law because they are U.S. citizens.
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 4.5 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 4.5, a person who is a resident of the country which considers him to be self-employed will be subject only to the Social Security laws of that country. A person who is not a resident of the country which considers him to be self-employed will be subject to the laws of the other country.
6. A person who would otherwise be compulsorily covered under the laws of both Contracting States with respect to employment as an officer or member of a crew on a ship or aircraft shall be subject to the laws of only the Contracting State in whose territory the person resides.	Under Article 4.6, a person employed on a ship or aircraft who would otherwise be covered under the laws of both the United States and Korea will be covered only under the laws of the country where he or she resides.
7. (a) This Agreement shall not affect the provisions of the Vienna Convention on Diplomatic Relations of April 18, 1961, of the Vienna Convention on Consular Relations of April 24, 1963, or of the Consular Convention between the United States and Korea of January 8, 1963.	Article 4.7 provides coverage rules applicable to employees of the U.S. and Korean Governments. Article 4.7(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 Korea are parties, apply to members of the staff of a diplomatic or consular mission, including the diplomatic, consular,

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(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 the preceding subparagraph shall be subject to the laws of only the first Contracting State. For the purpose of this paragraph, employment by the Government of a Contracting State includes employment by an instrumentality thereof.

(c) As regards Korea, employment by the Government of Korea includes employment by Korea's local governments.

8. 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.

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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. The Agreement will also not affect the provisions of the U.S.-Korean Consular Convention.

Article 4.7(b) provides that if a U.S. or Korean 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 Government employees, but also to persons working for a Government instrumentality.

Under paragraph 4.7(c), Korean Government employment includes employment by a local government in Korea.

Under Article 4.8, 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 to correct anomalous coverage situations that may arise to the disadvantage of workers or to eliminate dual coverage in unforeseen circumstances.

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PART III

Provisions on Benefits

Article 5

The following provisions shall apply to Korea:

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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 Korea and the rules for determining benefit amounts when entitlement is based on combined work credits. Article 5 contains rules specifically applicable to the Korean system, and Article 6 deals with the U.S. system.

The benefit provisions in Article 5 apply to old-age, survivors and invalidity (i.e., long-term disability) pensions under the Korean Social Security system.

Benefits under the Korean system are paid to workers who meet the applicable eligibility requirements, including minimum length-of-coverage and recency-of-work requirements. Under Article 5, Korea will combine U.S. coverage with periods of Korean coverage so that people who do not meet the minimum coverage and recency-of-work requirements may become eligible for partial benefits.

Korea has a number of old-age benefits, each with specific eligibility requirements. The full basic old-age pension is payable to a person who has stopped working, who is at least 60 years of age (to be gradually increased to age 65 in the period 2013-2033) and who has at least 20 years of coverage under the Korean system. Reduced old-age benefits are payable as early as age 55 with 10 years of coverage.

The amount of an old-age pension is based on the worker's length of coverage and average indexed earnings (known as "average standard monthly income," or ASMI) over the period he or she was covered under the Korean system. The pensioner can also receive a supplementary benefit for a dependent spouse, children, and parents. Legislative amendments effective in 1999 have provided for the splitting of old-age pension entitlement between divorced spouses.

The full basic old-age pension amount equals 1.8 times the sum of the average monthly wage of all covered workers for the year before entitlement and the pensioner's ASMI. For each year of coverage in excess of 20, the benefit amount is increased by 5%.

To qualify for disability benefits, a person must have been working in covered employment at the time he or she became disabled. If the person is totally disabled, the benefit is computed like an old-age pension. If the person is partially disabled, the pension may be reduced up to 40% of the full amount, depending on the degree of disability.

For survivors benefits to be payable, the deceased worker must have been contributing at the time of death or must have had at least 10 years of contributions. Survivors benefits are payable to widows, widowers, children, parents, parents-in-law, grandchildren, grandparents, and grandparents-in-law. Widowers must be over age 60 or severely disabled to qualify. Children must be under age 18 or severely disabled. Parents and grandparents must be at least age 60 or severely disabled. A lump-sum death benefit is paid to surviving dependent relatives such as siblings, nieces and nephews not eligible for other survivors benefits.

If the deceased person had at least 20 years of coverage, the survivors benefits are 60% of his full old-age pension. Benefits are reduced for those who had less coverage.

Persons who do not meet the eligibility requirements for benefits, may, under certain conditions, receive a lump-sum refund of employee and employer contributions plus interest. The refund is payable to a person who has attained age 60, but who has less than 10 years of coverage, or to the survivors of a person who dies without sufficient coverage to establish the right to survivors benefits.

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1. If a person is not eligible for old-age, survivors or disability benefits under Korean laws based on periods of coverage credited exclusively under Korean laws, the Agency of Korea shall take into account the person's periods of coverage credited under United States laws, insofar as they do not coincide, for the purpose of establishing the person's entitlement to benefits under Korean laws. The preceding sentence shall not apply for purposes of establishing entitlement to old-age, survivors or disability benefits unless the person has completed at least 18 months of coverage under Korean laws.	Article 5.1 applies where a person has periods of coverage under the U.S. Social Security system and at least 18 months of coverage under the Korean system, but not enough Korean coverage to qualify for benefits. In such cases, the Korean agency will take into account, for purposes of determining benefit eligibility, any periods of coverage credited under U.S. laws, insofar as these periods do not coincide with months of coverage under Korean laws.
2. To obtain a disability benefit or survivors benefit, the requirement of Korean laws that a person be covered when the insured event occurs shall be considered to have been met if the person is insured for a benefit under United States laws or has credit for at least four quarters of coverage under United States laws during a period of eight calendar quarters ending with the calendar quarter in which the insured event occurs according to Korean laws.	A worker must generally be covered under the Korean Social Security system at the time of disability onset or death in order for the worker or the worker's survivors to be eligible for disability or survivors benefits. Under Article 5.2, a worker who has sufficient U.S. coverage to be eligible for a benefit or who has at least 4 quarters of U.S. coverage in the 8-quarter period ending with the worker's disability onset or death will be deemed to meet the current coverage requirement of Korean laws.
3. In determining eligibility for benefits under this Article, the Agency of Korea shall credit three months of coverage for every quarter of coverage certified by the Agency of the United States.	In determining benefit eligibility based on combined periods of coverage, the Korean agency will credit 3 months of coverage for each quarter of coverage certified by the Social Security Administration. (Article 6.2 provides a corresponding rule for converting Korean months of coverage into U.S. quarters of coverage when determining U.S. benefit eligibility.)
4. Where periods of coverage under United States laws are taken into account to establish eligibility for benefits under Korean laws in accordance with this Article, the benefit due shall be determined as follows:	
(a) The Agency of Korea shall first compute a Basic Pension Amount equal to the amount that would have been payable to the person if all the periods of coverage credited under the laws	Where entitlement to Korean benefits is established based on totalized credits, the Korean agency, in accordance with Article 5.4(a), will first compute a theoretical benefit amount treating the worker's U.S. coverage

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of both Contracting States had been completed under Korean laws. To determine the Basic Pension Amount, the Agency of Korea shall take into account the person's average standard monthly income while covered under Korean laws.	as if it had been completed under Korean law, but using the average standard monthly income the person earned while covered under the Korean system.
(b) The Agency of Korea shall calculate the partial benefit to be paid in accordance with Korean laws based on the Basic Pension Amount calculated according to the preceding subparagraph, in proportion to the ratio between the duration of the periods of coverage taken into consideration under its own laws and the total duration of the periods of coverage taken into consideration under the laws of both Contracting States.	Under Article 5.4(b), the Korean agency will compute the amount of the benefit it will actually pay by prorating the theoretical amount determined under Article 5.4(a). The pro rata benefit will be computed by multiplying the theoretical amount by the ratio of the periods of coverage under Korean laws to the total periods in both countries.
5. Entitlement to a benefit from Korea which results from paragraph 1 of this Article shall terminate with the acquisition of sufficient periods of coverage under Korean laws to establish entitlement to an equal or higher benefit without the need to invoke the provision of paragraph 1 of this Article.	Article 5.5 provides that when a worker who is entitled to a pro rata Totalization benefit from Korea acquires additional Korean coverage which enables the person to qualify for an equal or higher benefit based solely on his or her Korean coverage, the Korean agency will pay the regular national law benefit rather than the Totalization benefit.
6. (a) United States nationals shall receive equal treatment with Korean nationals in the application of provisions of Korean laws regarding lump-sum refunds of contributions, regardless of when the contributions were paid. Notwithstanding paragraph 1 of Article 3, lump-sum refunds of contributions shall be paid to nationals of a State other than the Contracting States in accordance with Korean laws.	Under the Korean Social Security system, a worker can receive a lump-sum refund of the employee and employer contributions paid on his or her behalf, plus interest, if the worker attains age 60, but has less than the 10 years of coverage required for benefit eligibility. In addition, the survivors of a worker may receive a refund of contributions if the worker dies without enough coverage for the worker's survivors to qualify for survivors benefits. Under Korean law, however, contribution refunds may only be paid to non-Korean nationals if they are citizens of countries with Social Security systems that pay contribution refunds to Korean nationals or if provided by an international agreement. Article 5.6(a) provides that contribution refunds will be payable to U.S. nationals on the same basis they are paid to Korean nationals.

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(b) The periods of coverage for which contributions have been refunded in lump-sum shall not be certified by the Agency of Korea as creditable in totalizing periods to determine entitlement to a benefit.

Article 6

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 which are credited under Korean laws and which do not coincide with periods of coverage already credited under United States laws.

2. 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 three months of coverage certified by the Agency of Korea; however, no quarter of coverage shall be credited for any calendar quarter 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.

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Article 5.6(b) makes clear that periods of Korean coverage for which contributions have been refunded will not be taken into account for the purpose of determining entitlement to U.S. or Korean benefits.

Article 6 contains rules for determining U.S. benefit eligibility and amounts in the case of people who have periods of Social Security coverage in Korea 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 6.1, will take into account any periods of coverage credited under Korean laws insofar as these periods do not coincide with quarters of coverage already credited under U.S. laws.

Article 6.2 establishes the procedure that SSA will follow in converting periods of coverage under the Korean system into equivalent periods under the U.S. system. Periods of coverage under the U.S. system are measured in terms of calendar quarters while Korean periods of coverage 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 2000, $780 in earnings equals one quarter of coverage). Under Article 6.2, SSA will credit one quarter of coverage in a calendar year for every 3 months of coverage certified for that year by the Korean agency. (Article 5.3 provides a corresponding rule for converting U.S. quarters of coverage into Korean months of coverage when determining Korean benefit eligibility.) However, SSA will not credit months of coverage under Korean laws 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.

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3. 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.

4. 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.

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Article 6.3 describes the method of computing U.S. benefit amounts when entitlement is established by totalizing (i.e., combining) U.S. and Korean coverage. As stipulated in Article 6.1, persons qualifying 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 6.3, 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 benefit amount 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 benefit 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.

Article 6.4 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.

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PART IV

Miscellaneous Provisions

Article 7

The Competent Authorities of the two Contracting States shall:

(a) Conclude 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 application 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 application of this Agreement.

Article 7 outlines various duties of the Competent Authorities under the Agreement. Paragraph (a) authorizes the Competent Authorities to make any administrative arrangements that may be necessary to implement and administer the Agreement.

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 application of the Agreement.

Article 8

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 8 provides authority for the two countries to furnish each other nonreimbursable assistance in administering the Agreement. Such assistance may include the taking of benefit applications and the gathering and exchanging of information relevant to claims filed under the Agreement. Although Article 8 establishes the general principle that mutual administrative assistance will be free of charge, it also authorizes the two sides to agree to exceptions, such as the exception regarding medical examinations in Article 7.3 of the Administrative Arrangement.

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Article 9

1. In accordance with measures to be agreed upon, the Competent Authorities and Agencies of the two Contracting States shall communicate to each other any information necessary for the application of this Agreement.

2. 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 one Contracting State shall be governed by the national statutes of that Contracting State for the protection of privacy and confidentiality of personal data.

Article 10

1. Where the laws of one Contracting State provide that any document which is submitted to the Competent Authority or the 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 the Agency of the other Contracting State in the application of this Agreement.

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

ANNOTATIONS AND COMMENTS

Article 9.1 provides for the exchange of information necessary to implement the Agreement.

Both the United States and Korea have statutes and regulations that govern disclosure 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 9.2 provides that personal information pertaining to an individual which one country furnishes to the other under the Agreement will be protected in accordance with the applicable provisions of the other country's privacy and confidentiality laws.

Article 10 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.

Some countries require that the authenticity of documents that are 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

PRINCIPAL AGREEMENT	ANNOTATIONS AND COMMENTS
	such requirements.) Under Article 10.2, neither the United States nor Korea will require such authentication of documents submitted under the Agreement.
3. Copies of documents which are certified as true and exact copies by the Agency of one Contracting State shall be accepted as true and exact copies by the 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.	If the agency of one country certifies that a copy of a document it furnishes to an agency of the other country is a true and exact copy of an original document, the other country will accept this certification. Nevertheless, the agency of each country will remain the final judge of the probative value of any documents submitted to it.
Article 11	
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. The correspondence may be in the official language of either Contracting State.	Article 11.1 authorizes direct correspondence between the Competent Authorities and agencies of the two countries and between these bodies and any person with whom they may need to communicate. The correspondence may be in either country's language.
2. An application or document may not be rejected by the Competent Authority or Agency of one Contracting State because it is in the official language of the other Contracting State.	The Competent Authorities and agencies of each country may not reject an application or document because it is in an official language of the other country. The United States already accepts applications and documents without regard to the language in which they are written.
Article 12	
1. A written application for benefits filed with the Agency of one Contracting State shall protect the rights of the claimants 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 12.1, 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.

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2. If an applicant has filed a written application for benefits with the 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 rights of the claimants under the laws of the other Contracting State if the applicant provides information at the time 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.	Because an applicant may not be fully aware of his or her benefit rights in the other country, Article 12.2 provides that, in the absence of an expression of intent, the application will also protect the claimant's rights 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.
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 12.3 requires that a person claiming benefits under the Agreement file an application either on or after the date the Agreement enters into force.
Article 13	
1. A written appeal of a determination made by the Agency of one Contracting State may be validly filed with the 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 Korea have formal procedures for appealing adverse determinations of their agencies. Under Article 13.1, an appeal of a decision by an 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 procedure.
2. Any claim, notice or written appeal which, under the laws of one Contracting State, must have been filed within a prescribed period with the Agency of that Contracting State, but which is instead filed within the same period with the Agency of the other Contracting State, shall be considered to have been filed on time.	Article 13.2 provides that a claim, notice or written appeal which must be filed within a prescribed time limit with an agency of one country will be considered to have been filed on time if it is filed within such limit with an agency of the other country.

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Article 14	
In any case to which the provisions of Article 13 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 7(a) of this Agreement 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 13 of the Agreement shall transmit it without delay to the appropriate agency of the other country, indicating the date the document was received.
Article 15	
1. Payments under this Agreement may be made in the currency of the Contracting State making the payments.	Benefits to be paid by a country under this Agreement may be paid in the currency of that country. This corresponds to the current U.S. practice regarding benefit payments. Though Korean benefits are ordinarily paid in Korean currency, they may be paid abroad in U.S. dollars or in another currency designated by the beneficiary.
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 ensure 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 16	
Any disagreement regarding the interpretation or application of this Agreement shall be resolved by consultation between the Contracting States.	Article 16 obligates the Contracting States to attempt to resolve any dispute between them regarding the Agreement through direct consultation or negotiation.

PRINCIPAL AGREEMENT

Article 17

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.

PART V

Transitional and Final Provisions

Article 18

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

2. In determining the right to benefits under this Agreement, consideration shall be given to periods of coverage and other events which occurred before the entry into force of this Agreement. However, 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.

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

ANNOTATIONS AND COMMENTS

Article 17 provides that the Agreement may be amended by future supplementary agreements. After a supplementary agreement becomes effective, it will be considered an integral part of the Agreement.

Under Article 18.1, periodic benefits payable as a result of the Agreement will be paid only for periods beginning with the date on which the Agreement enters into force. Any lump-sum death payments provided by section 202(i) of the U.S. Social Security Act will be payable under the Agreement only if the death occurs on or after the date the Agreement enters into force.

In determining benefit eligibility and amounts under the Agreement, Article 18.2 provides that periods of coverage occurring before the Agreement enters into force will be taken into account. However, neither country will consider periods of coverage prior to the earliest date for which periods of coverage may be credited under its laws. 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.

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	ANNOTATIONS AND COMMENTS
4. The application 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 18.4 guarantees that benefits which are already being paid at the time the Agreement becomes effective will not be reduced as a result of its entry into force.
5. In applying paragraph 2 of Article 4 in the case of persons who were sent to the territory of a Contracting State prior to the date of entry into force of this Agreement, the periods of employment referred to in that paragraph shall be considered to begin on that date.	Under Article 4.2, an employee who is transferred by his or her employer in one country to work in the other country for 5 years or less will continue to be covered under the Social Security system of the first country and will be exempt from coverage in the host country. Article 18.5 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 4.2 applies who were transferred to the other country before the effective date of the Agreement, that prior period will not be counted for purposes of the 5-year limit.
Article 19	
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.	Each country will follow its own constitutional procedures 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 each Government has received the notification of approval from the other Government.
Article 20	
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 either Contracting State to the other Contracting State.	Article 20.1 provides for the Agreement to remain in effect until the expiration of 1 calendar year after the year notice of termination is given by one of the countries.

PRINCIPAL AGREEMENT	ANNOTATIONS AND COMMENTS
2. If this Agreement is terminated, rights regarding entitlement to or payment of benefits acquired under it shall be retained. The Contracting States shall make arrangements dealing with rights in the process of being acquired.	Article 20.2 provides that, in the event of termination of the Agreement, a person will retain benefit rights acquired before termination; special arrangements would determine the extent to which each country would recognize benefit rights in the process of being acquired at the time of termination--for example, periods of coverage which had not yet resulted in fully insured status.
IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Agreement.	
DONE in duplicate at Washington on March 13, 2000 in the English and Korean languages, the two texts being equally authentic.	The agreement was signed on March 13, 2000, in Washington, D.C., by Secretary of State Madeleine Albright and the Korean Minister of Foreign Affairs, Lee Joung-binn.
FOR THE UNITED STATES OF AMERICA	
Madeleine Albright	
FOR THE REPUBLIC OF KOREA	
Lee Joung-binn	

ANNEX B

ADMINISTRATIVE ARRANGEMENT

ANNOTATIONS AND COMMENTS

ADMINISTRATIVE ARRANGEMENT
FOR THE IMPLEMENTATION OF THE AGREEMENT
ON SOCIAL SECURITY
BETWEEN
THE UNITED STATES OF AMERICA
AND THE REPUBLIC OF KOREA

The Competent Authority of the United States of America and

the Competent Authorities of the Republic of Korea,

In conformity with Article 7(a) of the Agreement on Social Security between the United States of America and the Republic of Korea of March 13, 2000 (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.

ADMINISTRATIVE ARRANGEMENT

Article 2

1. The liaison agencies referred to in Article 7(a) of the Agreement shall be:

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

   (b) for Korea, the National Pension Corporation or the Korean Labor Welfare Corporation as the case may require.

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.

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 4 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.

ANNOTATIONS AND COMMENTS

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. Korea will have two liaison agencies. The National Pension Corporation will coordinate the OASDI coverage and benefit provisions, while the Korean Labor Welfare Corporation will be responsible for provisions dealing with coverage and contributions under the Industrial Accident Compensation Insurance.

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

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 4 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.

ADMINISTRATIVE ARRANGEMENT	ANNOTATIONS AND COMMENTS
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 Korea, by the National Pension Corporation.	Article 3.2 designates the agencies responsible for issuing coverage certificates.
3. The Agency of one Contracting State which issues a certificate referred to in paragraph 1 of this Article shall furnish a copy of 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 coverage certificate will furnish a copy of 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 Korean liaison 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 the Contracting State with which an application for benefits is first filed in accordance with Article 12 of the Agreement shall provide the liaison agency of the other Contracting State with such evidence and other information 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.

ADMINISTRATIVE ARRANGEMENT

3. The Agency of one 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 that Contracting State with such evidence and other available information as may be required for it to complete action on the claim.

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

Article 5

When the Agency of Korea pays benefits in the currency of the United States, the conversion rate shall be the rate of exchange in effect on the day when the payment is made.

ANNOTATIONS AND COMMENTS

Article 4.4 deals with the verification of claims information. Both U.S. and Korean 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 liaison 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.

Article 5 was included at the request of the Korean authorities to clarify the currency conversion procedure the Korean agency will follow when paying benefits in U.S. dollars.

ADMINISTRATIVE ARRANGEMENT

ANNOTATIONS AND COMMENTS

CHAPTER IV

Miscellaneous Provisions

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 coverage certificates issued pursuant to Article 3.1 of this Administrative Arrangement and the payments made to beneficiaries under the Agreement.

Article 7

In accordance with Article 8 of the Agreement, the agencies of the two countries will provide each other with such administrative assistance as may be necessary to implement the provisions of the Agreement. Article 7 of the Administrative Arrangement indicates the types of assistance that will be provided without cost and the types that will be provided on a reimbursable basis.

1. Where administrative assistance is requested under Article 8 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 Agencies of the Contracting States. Where the Agency of one Contracting State requests administrative assistance from the Agency of the other Contracting State that would not be free of charge under Article 8 of the Agreement, the Agency of the other Contracting State shall inform the Agency of the first Contracting State that the requested assistance will not be free of charge and will only provide such assistance if both Agencies agree upon the time and manner of reimbursing the costs.

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. Article 7.1 also establishes the procedure an agency will follow in notifying its counterpart in the other country when a request for administrative assistance involves a service that cannot be provided free of charge.

ADMINISTRATIVE ARRANGEMENT	ANNOTATIONS AND COMMENTS
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 one 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 liaison 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 paragraph 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.

ADMINISTRATIVE ARRANGEMENT

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.

DONE in duplicate at Washington on March 13, 2000, in the English and Korean languages, the two texts being equally authentic.

ON BEHALF
OF THE COMPETENT AUTHORITY
OF THE UNITED STATES OF AMERICA

William A. Halter

ON BEHALF
OF THE COMPETENT AUTHORITIES
OF THE REPUBLIC OF KOREA

Hyuck Choi

ANNOTATIONS AND COMMENTS

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.

The Administrative Arrangement was signed in Washington, D.C., on March 13, 2000, by William A. Halter, the Deputy Commissioner of Social Security, and Hyuck Choi, Korean Embassy Economic Minister.

REPORT TO CONGRESS ON THE FINANCIAL EFFECT OF THE U.S.-KOREAN SOCIAL SECURITY AGREEMENT

The following tables present estimates on the effects of the proposed U.S.-Korean Social Security agreement on the income and expenditures of both countries' Social Security programs and the number of people who will be affected by the agreement. The estimates were prepared based on the assumption that the agreement would become effective on January 1, 2000.

Table 1 shows the estimated additional costs that would accrue to each country's system as a result of the agreement. These costs would occur because (1) each country would pay additional benefits to certain people who have worked in both the United States and Korea but who could not qualify for benefits from one or both without the agreement, and (2) each country would lose Social Security tax income from workers who were previously required to contribute to both systems for the same work but who would contribute only to one system under the agreement.

Table 2 shows the number of people who would become eligible for a partial retirement, survivors, or disability benefit from the United States or Korea under the agreement. Also shown in Table 2 is the number of employees in each country who, along with their employers, would no longer be subject to dual Social Security coverage and taxation.

Table 1.--Estimated additional costs to the U.S. and Korean Social Security systems under a proposed totalization agreement between the two countries, calendar years 2000-2004

(In millions)

	Calendar year				
	2000	2001	2002	2003	2004
Additional costs to the U.S. Social Security system:					
Increase in OASDI benefit payments	$1	$2	$3	$3	$4
Reduction in OASDHI tax contributions	11	14	14	15	15
Total	12	16	17	18	19
Additional costs to the Social Security system of Korea:					
Increase in benefit payments	1	3	4	5	6
Reduction in tax contributions	5	7	8	8	9
Total	6	10	12	14	15

1/ Less than $500,000.

Table 2.--Estimated number of persons who would be affected by a proposed totalization agreement between the United States and Korea, calendar years 2000-2004

(In thousands)

	Calendar year				
	2000	2001	2002	2003	2004
Number of persons receiving a totalized OASDI benefit based in part on employment in Korea under the proposed agreement (in current-pay status at mid-year)	0.6	0.9	1.2	1.5	1.7
Number of persons receiving a totalized Korean benefit based in part on employment in the United States under the proposed agreement (in current-pay status at mid-year)	2.1	3.6	4.5	5.4	6.0
Number of U.S. employees in Korea who, along with their employers, would no longer make tax contributions during the year to the Social Security system of Korea	1.2	1.5	1.6	1.6	1.6
Number of Korean employees in the United States who, along with their employers, would no longer make tax contributions to the OASDHI Trust Funds	1.1	1.4	1.4	1.4	1.4

Notes: 1. The above estimates are based on the intermediate set of assumptions of the 1999 Trustees Report.
2. The estimates assume an effective date for the agreement of January 1, 2000.
3. Detail may not add to totals because of rounding.

Social Security Administration
Office of the Chief Actuary
July 29, 1999