PENSION NOTES

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Migration and pension savings portability

EXECUTIVE SUMMARY

As a result of war, religious or racial persecution and/or severe economic crises, a growing number of people are migrating to other countries. Given this constantly increasing migrant flow, it would be highly desirable for migrant workers and their families to be able to access the protection and benefits provided by the social security system of the country receiving them, in conditions similar to local inhabitants and workers.

Due to this phenomenon, workers would also be increasingly more likely to have contributed to pensions in more than one country. It would therefore be advisable to regulate this situation so that contributions are not lost and workers can freely choose the country where they wish to receive their pensions.

Latin America has not been exempt from the global migration process. Some examples:

- The migratory flow in Colombia, i.e. entry versus exit of foreign citizens, was 154,302 people in 2017, with a significant increase in the second half of the year, due to the complex political and economic situation in Venezuela. 0.7% of Pension System affiliates are foreigners.
- Moreover, there were 1.1 million foreigners in Chile in 2017: more than two-thirds of them entered the country in the last decade. Foreigners account for 6.1% of the total population and more than 5% of the affiliates and contributors to the AFP system.
- There were 523,776 foreigners resident in Mexico in 2016, of which 289,026 were temporary and 234,750 permanent, highlighting the fact that the latter have nearly doubled in the last 3 years. Nonetheless, foreign residents represent only 0.4% of the Mexican population and 0.1% of Afores affiliates.
- Migrants in Peru increased to almost 165,000 in 2017, and more than 160,000 foreigners immigrated in the first four months of this year alone[1], which reveals considerable growth of late. Foreigners make up 2.2% of AFP contributors.

FIAP has put forward two proposals for addressing the issue of migrant workers' pensions:

1. **Establish bilateral agreements between all countries with individually funded pension systems for the transfer of pension funds when workers change their country of residence.**

[1] Peruvian National Immigration Authority.

2. **Workers who are citizens of countries that do not have pension fund transfer agreements and/or individually funded pension systems, should be allowed to withdraw their pension funds when changing their country of residence.**

Although the latter proposal is not as fitting as the former, since it does not guarantee that the withdrawn savings will be used for pension purposes, it is very easy to implement since it is unilateral, does not require agreements with other countries, and shares several of the benefits of the former, namely: it facilitates the return to the country of origin, ratifies the ownership of workers' funds, facilitates the formalization of foreign workers and reduces the informal economy and government expenditure on non-contributory pensions.

INTRODUCTION

Migratory flows are now prominent in the news. The United Nations Refugee Agency (UNHCR) recently announced that there were a record number of 68.5 million refugees and displaced persons worldwide in 2007, and that this figure has grown steadily in the last five years. 16.2 million people fled their homes in 2017 alone, i.e. 44,500 people per day. Unfortunately, Latin America has not been spared from this global process.

War, religious or racial persecution and/or severe economic crises have led to a growing number of people migrating to other countries, seeking better life opportunities.

Given these constantly increasing migrations, it is highly desirable for migrant workers and their families to be able to access the protection and benefits provided by the social security system of the country receiving them, in conditions similar to local inhabitants and workers.

A particular aspect of social security is the pension system, whose benefits are mostly not perceived immediately, but rather on retirement. With growing migratory flows, there will be workers who have paid pension contributions in more than one country. It would therefore be advisable to regulate this situation so that contributions are not lost and workers can freely choose the country where they wish to enjoy their pensions.

This Pension Note analyses migratory flows in the countries of the Pacific Alliance and the advantages of allowing pension fund mobility for migrant workers and the countries involved.

MIGRATION IN THE COUNTRIES OF THE PACIFIC ALLIANCE

COLOMBIA

The migratory flow in Colombia, i.e. entry versus exit of foreign citizens, was 154,302 people in 2017. There has also been a considerable increase of late, since there were 148,712 more arrivals than departures in the second half of 2017, compared to only 5,590 in the first half of the year.

On analyzing the evolution of the country of origin of foreign citizens over time, one can see that Venezuela, which ranked second in previous years, had clearly become the main country of origin in 2017, due to the complex political and economic situation in the country.

In June this year, in turn, there were 102,407 foreigners enrolled in the Colombian pension system, i.e. 0.7% of members, of which about 40% are Venezuelans. They are followed, at a distance, by Spaniards, Americans, Peruvians, Mexicans, Argentines and Ecuadoreans.

CHILE

There were 1.1 million foreign nationals in Chile at the end of last year, representing 6.1% of the total population[2]. More than two thirds of them arrived in Chile in the last decade. According to the same source, the estimated percentages of resident foreign nationals are: 23.8% Peruvians; 13% Colombians; 12% Venezuelans; 11% Bolivians; 10% Haitians; and 7.9% Argentines.

Moreover, based on the information provided by the Chilean Pensions Authority, there were 589,190 foreign enrolled members and 288,699 foreign contributors on the same date, representing more than 5% of the total number of enrolled members and contributors. Peru, Colombia, Bolivia, Venezuela and Haiti are the leading countries of origin.

MEXICO

There were 523,776 foreign residents in Mexico in December 2016 (Immigration Policy Unit, SEGOB), which breaks down into 289,026 with temporary residence and 234,750 with permanent residence. It is worth mentioning that the number of foreigners with temporary residence has remained relatively stable in the last decade, as opposed to the number of foreigners with permanent residence, which has almost doubled in the past three years. Resident aliens represent only 0.4% of the total Mexican population.

The number of foreigners enrolled in the Afores, as shown in the following table, is approximately 54,000, representing only 0.1% of the total number of 51,356,569 enrolled members.

[2] EMOL: Aliens and Immigration Department of Chile.

AFORE	# FOREIGN MEMBERS
SURA	13.332
XXI BANORTE	20.829
AZTECA	753
PRINCIPAL-Metlife	4.603
PROFUTURO	2.272
CITIBANAMEX	5.957
INVERCAP	3.258
COPELL	N.A.
INBURSA	2.601
PENSIONISTE	N.A.
TOTAL	**53.605**

Source: In-house based on figures provided by AMAFORE.

Note: The figures shown are the most up-to-date figures provided by the AFORES (between June and July 2018).

PERU

The migratory flow in Peru, i.e. entry versus exit of foreign nationals from 2008 to 2016, fluctuates between 30,000 and 80,000 per year, except for 2011 when the flow was higher. Nonetheless, immigration has increased considerably in the last few years, to almost 165,000 in 2017 and more than 160,000[3] in the first four months of this year alone.

Moreover, there are 57,176 foreign contributors in the Peruvian AFP system, representing 2.2% of the total number of contributors.

The above figures show that there are a significant number of migrants who are not working, or more likely working in the informal economy.

A more complete overview of the migratory process in the Latin American FIAP member countries is shown in the table below, with data provided by the United Nations:

[3] Peruvian National Immigration Authority.

Total stock of migrants of both genders per year, by country

Country	1990	1995	2000	2005	2010	2015	2017
Chile	107,501	142,417	177,332	273,384	369,436	469,436	488,571
Colombia	104,277	106,943	109,609	107,612	124,271	139,134	142,319
Costa Rica	417,628	364,287	310,946	358,175	405,404	411,697	414,214
El Salvador	47,360	39,537	31,713	36,019	40,324	42,045	42,323
Honduras	270,423	149,442	28,461	27,875	27,288	38,317	38,700
Mexico	695,674	458,549	538,051	712,487	969,538	1,193,155	1,224,169
Peru	65,025	56,732	66,293	77,541	84,066	91,481	93,780
The Dominican Republic	291,151	323,381	355,611	376,001	393,720	415,564	424,964
Uruguay	98,116	93,428	88,871	82,318	76,263	78,799	79,586

Source: United Nations Population Division; International migrant stock: The 2017 review; Internet: http://www.un.org/en/development/desa/population/migration/data/estimates2/estimates17.shtml

Three main sources of migration per country

Destination country	Country of origin (in order of importance)		
Chile	Perú	Argentina	Bolivia
Colombia	Venezuela	EE.UU.	Ecuador
Costa Rica	Nicaragua	Colombia	El Salvador
El Salvador	Honduras	Nicaragua	EE.UU.

Source: FIAP in-house with data from the United Nations Population Division.

The low participation of Venezuela and Haiti in the main migratory flows is particularly noteworthy, since it does not match the considerable recent outflow of citizens of those countries. It is highly probable that these figures are not fully updated and/or consider only legal migrants.

From all the above data, it can be concluded that migrations are significant in most countries and that they are also an increasing important phenomenon in the area.

Based on the above, it would appear to be desirable to find a solution for the pension savings accumulated by migrant workers, since their loss, or the fact that migrants have to wait until the official retirement age to be able to apply for a pension in the countries in which they live, it is not acceptable.

FIAP believes that this issue must be resolved in two alternative ways:

1. **Establish bilateral agreements between all countries with individually funded pension systems for the transfer of pension funds when workers change their country of residence.**

The fact that all of the countries of the Pacific Alliance (PA), i.e. Mexico, Colombia, Peru and Chile, have individually funded pension systems, facilitates the transfer of pension funds, and makes it advisable to authorize this process between them. Furthermore, the existence of a fund transfer agreement between Peru and Chile, which has operated successfully, backs up this proposal (see Chart No. 1). Based on the accumulated lessons and experiences in the PA countries, fund mobility can later be extended to the remaining countries with individually funded systems.

The main benefits of pension fund transfer agreements are the following:

- They reduce the informal economy and "social dumping," since foreign workers have greater incentives to contribute if their pension savings are not lost.

- It reduces unfair competition with local workers, employing foreign workers who would be more willing to work in the informal economy, without the costs and benefits of Social Security.

- It protects workers and their families through the benefits of social security and higher pensions.

- It enables greater mobility of people in terms of work and retirement.

- It facilitates returning to the country of origin or remaining abroad, depending on individual preferences.

- It confirms the ownership of workers' funds.

- It facilitates migration decisions, which contribute to the welfare of migrant workers and the countries involved.

- Last but not least, it enables reducing government expenditure on non-contributory pensions, because when migrant workers transfer their funds to another country, they waive any pension benefit in the country they are leaving.

Fund transfer agreements usually allow the transfer of pension savings to the countries where migrant workers are currently resident. In order to ensure that such transfers are exclusively for pension purposes, the Chile-Peru Agreement stipulates that funds can only be transferred when workers have retired or have contributed for a minimum number of months in the country to which they wish to transfer their funds. It is worth mentioning that when workers change their country of residence, the Pension Fund Managers (AFPs) of the countries involved are the ones that transfer their funds.

2. **Workers who are citizens of countries that do not have pension fund transfer agreements and/or individually funded pension systems, should be allowed to withdraw their pension funds when changing their country of residence.**

In this case, workers who can prove that they are taking up residence in a country with a PAYGO program, or a country that does not have a pension fund transfer agreement, will be able to request their AFPs to return all of their social security savings directly to them.

Although the latter proposal is not as fitting as the former, since it does not guarantee that the withdrawn savings will be used for pension purposes, it is very easy to implement since it is unilateral, does not require agreements with other countries, and shares several of the benefits of the former, namely: it facilitates the return to the country of origin, ratifies the ownership of workers' funds, facilitates the formalization of foreign workers and reduces the informal economy and government expenditure on non-contributory pensions. There are also other major costs, such as the reduction in pension amounts due to withdrawals, and the incentive to migrate or to return to the country of origin if there is a possibility of retirement.

It is worth mentioning that this alternative is fully operative for all foreign nationals, although restricted solely to professionals or technicians[4], who can withdraw their accumulated savings in the AFP in a lump sum if they meet the following three requirements: 1) prove that they are technicians or professionals with duly

[4] Law No. 18,156.

translated and authenticated diplomas; (2) prove that they are enrolled in a pension or social security regime outside of Chile, which provides benefits in case of sickness, disability, old age and death; (3) that the intention of remaining enrolled in the aforementioned regime is stipulated in the employment contract.

Based on the figures provided by AFP Capital, it is estimated that approximately 1,000 fund withdrawal requests are submitted monthly in all AFPs.

It is worth mentioning that there are no justifiable reasons for restricting fund withdrawals only to professionals and technicians, and that the discrimination affecting workers without such studies (or who have not accredited them) should be eliminated, treating all foreign workers equally.

It would also appear to be reasonable to consider the special situation of those countries with PAYGO pension systems that have subscribed International Social Security Conventions acknowledging contributions paid in other countries, as well as the worker's own country. In such cases, as an alternative to transferring pension funds to the country's PAYGO system, workers can access the pension benefits corresponding to them as if their contributions abroad had been paid in their own country.

In order to facilitate these agreements, as well as those listed in Alternative 1, they could be made under the purview of the Ibero-American Multilateral Social Security Convention described in Chart No. 2.

In these cases, and as in Alternative 1, workers must waive any pension benefit in the country they are leaving when withdrawing or transferring their pension funds. In this regard, it should be noted that Chilean Law[5] currently provides that foreign workers who withdraw their pension funds will not be able to access the benefits of the Solidarity Pillar.

[5] General Rule 161

CHART 1: PERU - CHILE CONVENTION

The negotiation of the Convention began in 2002, and it became fully operational in 2007.

Its main features are:

- It operates with both PAYGO and Individually Funded Systems, and includes health benefits.
- Equal treatment: Migrant workers will have the same obligations and rights that the law of that country provides for its nationals.
- Social security contributions are only paid in the country where they are working, except for temporary work of up to 3 months, and government employees, diplomatic or consular staff and ship or aircraft crews.
- It considers the Social Security continuity of individuals, the accumulation of months of contribution, the exportation of pensions and disability rating.

In its article 18, it regulates fund transfers between individually funded systems:

- It acknowledges the right (not the obligation) of workers to transfer the accumulated balance in their individual accounts to the country where they live.
- To ensure their social security purpose, such transfers can only be performed after 60 months of contributions, or after retirement in the country to which migrant workers wish to transfer their funds.
- It includes Mandatory and Voluntary Contributions and Agreed Deposits or Employers' Contributions and the Recognition Bond (when pertinent).
- The transaction is conducted between the AFPs of both countries (workers do not touch their pension savings).
- The Disability and Survival Insurance and the Funeral Expenses, or the Funeral Benefit, are subject to the law of the country of origin.
- Disassociation: Once the transfer has been performed, with no balance remaining, the worker is disassociated from the social security system of the country of origin.

The following table shows the number and amounts of pension fund transfers between Chile and Peru:

Results of the Chile-Peru Fund Transfer Convention

	Number of fund transfers		Transfer Amounts (MUS$)	
YEARS	From Peru to Chile	From Chile to Peru	From Peru to Chile	From Chile to Peru
2017	166	65	2.1	4
2016	183	91	1.7	2.4
2015	72	120	4.4	1.8
2014	83	106	2.2	0.7
2013	86	100	2.7	0.6
2012	77	72	2.9	0.7
2011	49	86	4.3	0.9
Total	716	640	20.3	11.1

Source: In-house based on data provided by the Chilean Pension Authority

CHART 2: IBERO-AMERICAN SOCIAL SECURITY CONVENTION

The following table shows the current status of the Ibero-American Multilateral Social Security Convention in each one of the Latin American countries:

(Articles 29, 30, 31.2 CMISS and 33.3 AA)

Countries that have signed it	Date of signing the convention	Date of ratification	Date of deposit of the ratification instrument in the SEGIB-OISS	Subscription date application agreement	Effective application of the agreement	Population
Argentina	10/11/ 2007	09/06/2010	31/05/2016	31/05/2016	1/08/2016	42.980.026
Bolivia	10/11/ 2007	08/11/2010	02/02/2011	18/04/2011	01/05/2011	10.027.254
Brasil	10/11/ 2007	30/10/2009	11/12/2009	19/05/2011	19/05/2011	201.000.000
Chile	10/11/ 2007	18/11/2009	30/11/2009	01/09/2011	01/09/2011	16.572.475
Colombia	26/11/2008					
Costa Rica	10/11/ 2007					
Ecuador	07/04/ 2008	31/08/2009	04/11/2009	20/06/2011	20/06/2011	14.067.000
El Salvador	10/11/ 2007	29/05/2008	04/09/2008	17/11/2012	17/11/2012	6.251.495
España	10/11/ 2007	05/02/2010	12/02/2010	13/10/2010	01/05/2011	46.507.760
Paraguay	10/11/ 2007	15/12//2010	09/02/2011	28/10/2011	28/10/2011	6.672.631
Perú	10/11/ 2007	12/09/2013	30/01/2014	20/10/2016	20/10/2016	31.915.789
Portugal	10/11/ 2007	27/10/2010	22/12/2010	19/03/2013	21/07/2014	10.561.614
República Dominicana	07/10/2011					
Uruguay	10/11/ 2007	24/05/2011	26/07/2011	26/07/2011	01/10/2011	3.286.314
Venezuela	10/11/ 2007	16/02/2009**				

Source: Ibero-American Social Security Organization (OISS).

As can be seen, although the agreement drawn up under the purview of the Ibero-American Social Security Organization (CISS) includes a significant number of countries in which it is fully operational, there are other countries such as Mexico, which has not subscribed it, and Colombia, Costa Rica and the Dominican Republic, which even though they subscribed it many years ago, have not implemented any of the subsequent processes, due to which it is not applicable in those countries.

It is worth mentioning that the Convention does not modify or replace the laws of any of the subscribing countries, but rather coordinates them to guarantee the rights of migrant workers. It also provides for fund transfers via bilateral agreements.

The Convention considers:

- **Equal Treatment:** Regardless of nationality.
- **Individuals it is applicable to:** Formal, dependent and self-employed workers.
- **Spheres it is applicable to:** Contributory economic benefits for old age, disability, survival, work accident and occupational diseases. Excludes health care, welfare and war pensions.
- **Applicable law:** Labor law (excluding temporary work, diplomatic and consular representations, ship and aircraft crews).

The Convention provides that countries with individually funded systems may establish mechanisms for transferring funds for pension purposes for covering disability, old age and death benefits. It also states that the Implementation Agreement must generically regulate the transfer of funds, regardless of complementary bilateral or multilateral agreements.

There have been no fund transfer agreements under the purview of the Ibero-American Multilateral Agreement to date.

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