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Broad opposition has emerged in the Chamber of Deputies and the Senate to President Ernesto Zedillo's proposal to allow foreign participation in a newly created retirement and pension plan (Administradoras de los Fondos de Retiro, AFORES). The new retirement plan, which is scheduled to go into effect in 1997, is part of a program to completely overhaul the Mexican social security system. As part of an effort to attract capital to AFORES, the Zedillo administration initially proposed opening management of the pension program fully to US and Canadian financial management companies and partially to companies from other countries. However, this proposal drew immediate opposition in the legislature. In late March, both the Senate and Chamber of Deputies with broad support from all parties represented in the two chambers passed resolutions opposing the administration's proposal to allow foreigners to manage AFORES.

The legislative opposition is rooted in the issue of Mexican sovereignty, since many congressional representatives and others are concerned that AFORES will be controlled by foreign capital. Indeed, legislators from Zedillo's governing Institutional Revolutionary Party (PRI) warned the administration to avoid the same situation as in Chile, where US fund managers control more than 70% of privatized pension funds. Senate Finance Committee Chairman and PRI member Carlos Sales Gonzalez explained that one of the major concerns raised by opponents of the plan was that foreign managers of AFORES would not necessarily reinvest the fund's money in projects that benefit Mexico. Indeed, this concern was raised frequently by leaders of Mexico's largest labor union, the Confederacion de Trabajadores de Mexico (CTM), which lobbied heavily against foreign participation in AFORES during testimony before the Senate. "We don't want our pension money to be used for development projects in other countries," said CTM leader Abelardo Carrillo Zavala.

Another concern heard by legislators was that foreign companies have greater financial and technological capabilities than their Mexican counterparts and would almost certainly win bids for management of AFORES. Both the Senate and the Chamber of Deputies are scheduled to complete legislation to overhaul the social security system before the end of April, but for the moment they are holding hearings to first consider a variety of viewpoints. While legislators were unanimous in opposing a full opening of AFORES to foreign participation, the proposals on how the program will in the end be structured have varied widely. For example, the opposition National Action Party (PAN) has focused its efforts on restricting the participation of the banking sector in AFORES, regardless of whether the banks are domestic or foreign. The PAN has been a frequent critic of the Mexican banking sector, criticizing banks for not doing enough to help reactivate the economy. Meantime, Democratic Revolution Party (PRD) leaders in both the Chamber of Deputies and the Senate have pushed a separate proposal to create a government agency, supervised by the legislature, to oversee the management of AFORES. For their part, members of the PRI have been divided on whether any level of foreign participation should be allowed in AFORES.

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Some members of the ruling party have pushed for creation of a structure that would allow minority participation in AFORES by foreign companies. Many of the legislators who supported this position agreed with the Zedillo administration's contention that domestic financial resources are currently too limited to boost the savings rate in Mexico, and therefore, some foreign participation should be allowed into the pension plan. The original plan offered by the Zedillo administration would allow unlimited participation by US and Canadian companies, both of which are partners with Mexico in the North American Free Trade Agreement (NAFTA). Companies based in other foreign countries would be allowed to acquire a minority share ranging up to 49%. In fact, one of the few companies that has already openly expressed interest in participating in AFORES is Chile's Provida. Provida was instrumental in creating viable pension and retirement funds in Peru, Colombia, and Argentina.

Amid the debate about foreign participation, legislators were forced to consider whether restrictions on foreign participation in AFORES would violate terms of NAFTA. In testimony before the Senate in late March, Finance Secretary Guillermo Ortiz said the administration's own interpretation of NAFTA regulations was that Mexico was indeed obligated to open the new pension program to foreign participation. On the other hand, Ortiz said the administration would accept restrictions on foreign participation passed by the legislature as long as the Senate and Chamber of Deputies were able to produce legal opinions from qualified experts indicating that Mexico was not obligated to open up the pension plan to foreigners.

Federal Deputy Salvador Mikel of the PRI acknowledged that the restrictions on foreign participation in AFORES are highly based on "nationalism" in Mexico. However, Mikel also said NAFTA can be interpreted in such a way to support Mexico's position to reserve management of the pension funds to Mexicans. "We are simply interpreting the North American Free Trade Agreement (NAFTA) in Spanish," said Mikel, suggesting that language in NAFTA could be interpreted to Mexico's benefit. Other legal questions have arisen during the debate over AFORES. For example, during a hearing conducted by the Finance and Labor committees of the Chamber of Deputies on April 8, experts raised the question of whether the management of pension funds by private parties would lead to violations of the principle of social security as spelled out in the Mexican Constitution.

One expert, Nestor de Buen of Academia Iberoamericana de Derechos del Trabajo, said the plan under consideration would break up a viable system of social security, which would in effect be replaced by a private system of insurance. Additionally, de Buen questioned whether the Constitution would allow a cabinet department, the SHCP, to gain control over the Mexican social security institute (IMSS). (Sources: El Financiero International, 04/01/96; Notimex, 04/02/96; La Jornada, 04/03/96; Excelsior, 04/03/96, 04/10/96; New York Times, 04/05/96)

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