



12 JUL 1951

ECONOMIC AND LEGAL STATUS OF FOREIGN INVESTMENTS IN
LATIN AMERICA

(Prepared by the Secretariat)

1. At its third session in June 1950 the Economic Commission for Latin America adopted a resolution relating to foreign investments (E/CN.12/198). This resolution requested, among other things, that the Secretariat complete its studies of the economic and legal status of foreign investments in Latin American countries undertaken pursuant to a resolution of the second session (E/CN.12/132). The Commission resolved also "to request the Member Governments to make known to the Executive Secretary periodically and in a systematic fashion data concerning the amount, origin and nature of foreign investment, as well as concerning the policies and legal and administrative measures, practices and procedures that affect foreign investments in their respective territories". The Executive Secretary was requested to compile and analyse the data placed at his disposal by Member Governments.

2. At the third session of the Commission the Secretariat submitted studies on the economic and legal status of foreign investments in the following countries:

Argentina
Brazil
Chile
Colombia
Cuba
Guatemala
Mexico
Uruguay
Venezuela

These were circulated under the symbol E/CN.12/166/Addenda 1 to 9 inclusive. For the information of delegations, additional copies are circulated herewith.

3. Pursuant to the resolution of the fourth session the Secretariat has undertaken to prepare similar studies for the remaining eleven countries in the region. It is planned to issue studies of the following countries before the fifth session:

Bolivia	(E/CN.12/166/Add.10)
Peru	(E/CN.12/166/Add.11)
Honduras	(E/CN.12/166/Add.12)
Costa Rica	(E/CN.12/166/Add.13)
Haiti	(E/CN.12/166/Add.14)
Dominican Republic	(E/CN.12/166/Add.15)
Paraguay	(E/CN.12/166/Add.16)

Like the previous studies, these reports are based largely on information derived directly or indirectly from official sources but have not been checked for accuracy with the governments concerned. Their preparation has been facilitated by information supplied by the Secretariats of the Inter-American Economic and Social Council, the International Bank for Reconstruction and Development and the International Monetary Fund. The Secretariat of the Commission, however, is solely responsible for their contents.

4. To facilitate the execution of the Commission's request that Member Governments communicate to the Executive Secretary information concerning foreign investments in their respective territories, the Secretariat in December 1950 transmitted a questionnaire to all Member Governments. A copy of this questionnaire is annexed. At the end of April replies to the questionnaire had been received from Chile, the Dominican Republic, Honduras, Nicaragua and Uruguay.

5. The Secretariat is of the opinion that it would be useful to have prepared and published a single report, including all the country studies, revised when required in the light of the information that has been or will be received in reply to the questionnaire referred to above. If this is undertaken it would be desirable that replies to the questionnaire be received at an early date in order that they may be taken into account in the preparation of the consolidated report.

COPY

Ref. ECLA/132

Santiago, 28 December 1950

Sir,

At its third session in June 1950 the Economic Commission for Latin America adopted a resolution relating to foreign investments (E/CN.12/198). This resolution requested, among other things, that the Secretariat complete its studies of the economic and legal status of foreign investments in Latin American countries. The Commission resolved also "to request the Member Governments to make known to the Executive Secretary periodically and in a systematic fashion data concerning the amount, origin and nature of foreign investment, as well as concerning the policies and legal and administrative measures, practices and procedures that affect foreign investments in their respective territories". The Executive Secretary was requested to compile and analyse the data placed at his disposal by Member Governments.

In pursuance of this resolution, I have the honour to send you a questionnaire on foreign investments in your country, and I take the liberty to request you to be so kind as to have it completed and returned to this Commission by 15 February 1951, if possible, so that the Secretariat may be able to prepare complete reports by country for the next session of the Commission, which is to be held in May 1951.

If all the statistical data requested cannot be furnished by the aforementioned date, we should like, at least, to receive such data as may be available and any relevant information relating to government policy and measures affecting foreign investment.

For the purpose of avoiding duplication of effort on the part of Governments and certain international organizations, this Secretariat has informed the International Monetary Fund and the International Bank for Reconstruction and Development that the aforesaid questionnaire would be sent directly to the Member Governments, and those two agencies were in agreement with this procedure.^{1/} In order, furthermore, to prevent a duplication of the data compiled by the International Monetary Fund, the scope of the questions relating to foreign-exchange controls has been limited. The Fund will supply the bulk of the information in this matter.

I have the honour to be etc.

Raul Prebisch
Principal Director in charge of the office
of the Executive Secretary

^{1/} The last two phrases here were omitted from the letters sent to Haiti and Argentina.

QUESTIONNAIREA. Amount, origin and nature of foreign investments

1. Has your Government or Central Bank within the last few years undertaken a census or registration of foreign investments in your country? If so, report the results by creditor country for all types of investments. State the valuation used for different types of investments (nominal value, book value, or market value; if more than one valuation is used for any type of investment give all figures obtained).
2. With respect to portfolio investments,^{1/} distinguish if possible between foreign held dollar bonds and other types of foreign-owned securities.
3. With respect to direct investments,^{2/} give the amount of such investments classified by country of origin and by the following groups:
 - (a) manufacturing
 - (b) trade and service industries
 - (c) mining, smelting and petroleum
 - (d) banking, insurance and other finance
 - (e) public utilities (including transportation)
 - (f) agriculture
 - (g) other (including commercial real estate)

If the data are not available for direct investments, strictly defined, supply whatever similar data are available, indicating the coverage of the figures.

4. For the more important foreign-owned enterprises or groups of enterprises, give the amount of participation of local capital, if any, and the total amount of capital, domestic and foreign, invested in such enterprises or groups of enterprises.

^{1/} If possible, only investments with a maturity of more than one year from date of issue should be included.

^{2/} Direct investments comprise branches of foreign enterprises, other enterprises controlled by foreign interests (control should be inferred if 25 per cent or more of voting stock is owned by a single or an organized group of foreign holders), and commercial real estate owned by foreign interests.

5. With respect to the statistics supplied, give particulars as regards the coverage and the principle of valuation used. Indicate, for instance, if the assets of resident foreign nationals are included. Comment freely on any other aspect of the statistics.
6. If any noteworthy changes in the amount and distribution of foreign investments have occurred since the date to which the above figures refer, please indicate them.
7. If no census or registration has recently been made, give an estimate, official or unofficial, of the foreign investments in the country, using, if possible, the classifications given above.
8. Is a census or registration of foreign investments contemplated within the next year?

B. Governmental policies and measures affecting foreign investments^{1/}

1. General policies

- (a) State the government's general attitude and policy toward foreign investments of various types and note any significant changes in recent years. Copies of any recent official statements on this subject should be enclosed.
- (b) State the source and types of foreign investment generally preferred by your Government and reasons for such preferences:
 - (i) source of funds: private, government, government agency, international agency;
 - (ii) type of investments: loans or equity capital.
- (c) Do you favour the investment of foreign private equity capital in specific branches of the economy? If so, list these and give reasons for the policy.
- (d) Do you discourage or prohibit the investment of foreign equity capital in specific branches of the economy? If so, list these and give reasons for such a policy.
- (e) List the industries which are subject to complete or partial public ownership or management, or both. Do you contemplate any change in policy with respect to partial or complete ownership or management of specific branches of the economy?

^{1/} It is suggested that copies of the relevant laws and regulations rather than summaries be given.

2. Specify any incentives or privileges that may be given to new foreign investments (including details of such incentives, etc. granted during the last few years), particularly relating to:
 - (a) taxation
 - (b) tariffs and import licenses
 - (c) exchange controls, including preferential exchange rates
 - (d) agreements giving other specific guarantees
 - (e) others, such as free land, buildings, roads, etc.
3. What laws and regulations of general applicability govern (A) existing and (B) future foreign investments in respect of:
 - (a) The maximum percentage of foreign equity capital permitted in various enterprises;
 - (b) The minimum representation of nationals of the country required in the boards of directors of various enterprises;
 - (c) Compulsory minimum employment of the nationals of the country in business enterprises, including employment in the administrative and managerial services;
 - (d) Immigration and employment of foreign technical and administrative personnel, including the conditions and duration of stay in the country;
 - (e) Requirements in respect of the training of nationals of the country by foreign enterprises;
 - (f) Requirements in respect of deposit of specified amounts of local or foreign currency by foreigners desiring to start particular enterprises;
 - (g) Restrictions regarding the total number of foreign concerns or the number of foreign concerns belonging to the nationals of any particular country in specified fields of economic activity;
 - (h) Extension of operations by existing foreign enterprises involving an increase in capital, additions to equipment, or change in type of activity.

4. State specific laws and regulations, if any, which affect significantly the investment of capital in specific branches of economic activity only, such as in:
 - (a) manufacturing
 - (b) trade and service industries
 - (c) extractive industries (mining, smelting and petroleum
 - (d) banking, insurance and other finance
 - (e) public utilities (including transportation)
 - (f) agriculture and real estate.

This question refers to laws and regulations such as mining codes, petroleum legislation, permission to establish specific types of enterprises, etc. Although such regulations may apply without discrimination to both domestic and foreign capital, they should be included, since they often pertain primarily to foreign investment in view of the limited supply of domestic capital.

5. State the laws and regulations governing the amount and transfer abroad of compensation in the event of nationalization of an enterprise. Also give details of the terms of compensation actually offered in the case of enterprises which have been recently nationalized and in which foreign capital was invested.
6. State the major provisions of tax legislation in regard to:
 - (a) Direct taxation on personal and business incomes, specifying whether foreign enterprises are taxed differently from domestic;
 - (b) Special taxation (and royalties) on particular industries;
 - (c) Treaties or other arrangements in respect of double taxation.
7. Describe any other regulations or measures that may significantly affect foreign investments, indicating particularly whether they apply differently to domestic and foreign investments. Comments should be directed to such matters as the following:
 - (a) Governmental allocation of materials and other direct controls on the operations of enterprises;
 - (b) Status and treatment of enterprises in national courts;
 - (c) Social security, labour, and other social legislation.

For Argentina and Haiti only

8. With respect to exchange control:
- (a) What are the regulations governing the entry of new foreign capital? With respect to such new foreign capital, do the same regulations govern the remittance of interest, dividends, royalties, capital repayments, etc. as for existing investments? If different, give details.
 - (b) What are the regulations on existing investments in regard to:
 - (i) transfer of interest, dividends, and profits abroad;
 - (ii) transfer of royalties and service charges payable abroad;
 - (iii) repatriation of the investment?