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ECONOMIC AND LEGAL STATUS OF FOREIGN INVESTMENTS
IN SELECTED COUNTRIES OF LATIN AMERICA

(Prepared by the Secretariat)

FOREIGN INVESTMENTS IN PARAGUAY

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I. THE NATURE AND ECONOMIC SIGNIFICANCE OF FOREIGN INVESTMENTS IN PARAGUAY

Prior to 1915, foreign borrowing by the Government of Paraguay was limited to two 8 per cent issues of £1 million and £2 million, placed in the London capital market in 1871 and 1872 respectively. The effective interest rates on these loans were considerably higher than the nominal rate; the loans were issued to the public at 80 and 85 per cent respectively and the price to the underwriters 64 and 73 per cent respectively. In 1915, an issue of 5 per cent bonds amounting to £440,000 was privately placed in London. The issues of 1871 and 1872 were the only Paraguayan bonds ever publicly offered abroad and the bonds privately placed in 1915 were the only part ever issued of a £1.3 million loan authorized in 1912.

Service payments on all three loans have been irregular. Default on the 1871 and 1872 loans occurred in 1874, but in 1875 the Government, out of the proceeds of the loans, repurchased £1.4 million of the 1872 loan. Under a settlement arrived at in 1885, the principal and the rate of interest on both loans were reduced by half, and interest arrears amounting to £1.3 million were liquidated by the assignment to bondholders of 2,177,344 acres of public land in Paraguay. Payments were continued under this arrangement until 1892. A new settlement in 1896 reduced the rate of interest to 3 per cent, the present rate. Payments were made regularly under this agreement until 1914, and irregularly from 1914 to 1920, when they ceased altogether. A new settlement was made in 1924 which reduced the interest rate on the 1915 loan to 3 per cent and, in effect, reduced the redemption value of all three loans to 70 per cent of the nominal values established in 1885. This effective reduction in principal was accomplished through a stipulation in the settlement agreement that the bonds would be retired through the operation of a cumulative sinking fund to be applied to the purchase or tender of bonds at less than 70 per cent of their face value, or, if not thus obtained, through drawings at 70 per cent. Funds for this purpose, and for the payment of interest, were to be remitted to London by the Paraguayan Government at the minimum rate of £52,572 per annum. The agreement of 1924 is still in effect, but payments due under it have been suspended twice - once in 1932, to be resumed in March 1938, and again in June 1938, to be resumed as to interest only in August 1942 and in full in November 1944.^{1/} On 31 December 1949, the face value of the outstanding sterling bonds amounted to £0.4 million.

^{1/} For further details, see the Annual Reports of the Council of the Corporation of Foreign Bondholders, London.

The United States Export-Import Bank granted Paraguay a credit of \$3.4 million on 1 June 1939 and another of \$3 million on 18 May 1942. Both loans were for highway construction. Of the total amount authorized, \$6 million was utilized by Paraguay. Service payments on these loans, in particular amortization, have been made irregularly. On 31 December 1950 an obligation of \$3.7 million was outstanding under the two credits, including arrears on principal of \$0.8 million (but not arrears on interest, amounting to \$81,000). During the first half of 1951, additional payments of \$0.6 million were made.^{1/}

Under an agreement, approved by the Government of Paraguay on 19 June 1942, the Bank of Brazil established a credit amounting to 100 million cruzeiros (about \$6 million at the official rate of exchange) in favour of the Paraguayan Government. According to the agreement the credit was to be made available, in installments, over a period of six years and to be repaid in dollars by the end of 1958. Available information indicates that by 1948 Paraguay had utilized the full amount of the loan and that the Paraguayan Government has regularly deposited the requisite amounts in guaranies with the Asunción branch of the Bank of Brazil, but that because of the shortages of foreign exchange dollar remittances to Brazil are in arrears.

A concession contract between the Paraguayan Government and a United States construction company, approved by a law of 17 October 1927, provided for the construction and operation of facilities at the Port of Asunción. The total cost of construction, installations and improvements to be undertaken by the company was fixed at \$2.5 million. The concessionaire was given the right to operate and maintain the facilities for a period of eleven years,^{2/} after which operation of the port and title to the installations was to revert to the Government. The company was authorized to collect, during the period of its operation of the port, certain special charges and to retain about half of the amounts collected for operation and maintenance expenses, etc. The remainder was to be delivered to a trustee and applied to service bonds issued by the company to finance construction costs. If any bonds were still outstanding upon expiration of the concession, the Government would assume responsibility for them, and retire them within five years.

^{1/} Export-Import Bank of Washington, Eleventh Semiannual Report to Congress for the Period July-December 1950, Washington, 1951, pages 15 and 34-35.

^{2/} The port was opened on 18 December 1929.

/During the life

During the life of the concession little service was paid on account of the bonds, and on 18 December 1940, when the concession expired, the company claimed that the amount due under the contract was about \$3.9 million which should be increased to \$6.6 million by virtue of a "gold clause" contained in its contract with the Government. A law of 9 November 1940 provided for settlement with the company and for nationalization of the port as of 18 December 1940. Under the settlement the total obligation of the Government to the company was fixed at \$3.9 million, consisting of \$2.4 million in principal of outstanding bonds, \$1.1 million in unpaid interest, and the remainder in interest on unpaid coupons and various other claims for interest and expenses. The recognized obligation was reduced to \$2.7 million which the Government agreed to pay over a period of 30 years with interest at 5 per cent. It is understood that payments have been made regularly.^{1/}

^{1/} See statement by the Director General of the Port of Asunción contained in "El Paraguayo", (Asunción) 22 December 1945.

The external debt of the Paraguayan Government at the end of 1949 may be summarized as follows:

(In thousands of currencies indicated)

<u>Loan</u>	<u>Original currency</u>	<u>Equivalent in dollars</u>
Sterling loans	£ 431.5	1,208
Export-Import Bank of the United States	\$ 4,044	4,044
Bank of Brazil	Guaranies 14,553	4,709
Port concession	\$ 2,246	2,246
Miscellaneous creditors <u>a/</u>	Guaranies 6,080	<u>1,967</u>
Total		14,174 <u>b/</u>

a/ Largely due to manufacturers of military supplies in various foreign countries.

b/ If account be taken of the reduction in the outstanding sterling debt to a maximum of 70 per cent of the nominal amount, as agreed in the 1924 settlement referred to above, the total outstanding at the end of 1949 is reduced from \$14.2 million to \$13.8 million.

According to information published by the Minister of Economy in July 1949, foreign-owned enterprises operating in Paraguay had registered their total capital employed in Paraguay at 189 million guaranies, equivalent to about \$61 million at the official exchange rate then prevailing of 3.09 guaranies per dollar.^{1/} The distribution of this amount by nationality of ownership and industry was as follows:

^{1/} Conversion to dollars of amounts relating to the period 1944-4 March 1951 have been made throughout this study at the official "par" rate of 3.09 guaranies to the dollar. The corresponding rate from 5 March 1951 would be 6 guaranies per dollar.

Table 1. Foreign Business Investments in Paraguay
(In millions of guaranies)

<u>Industry</u>	<u>United States</u>	<u>United Kingdom</u>	<u>Argentina</u>	<u>Switzerland</u>	<u>Spain</u>	<u>Uruguay</u>	<u>Brazil</u>	<u>Other</u>	<u>Total</u>
Quebracho	18.4	-	14.4	-	-	-	-	-	32.8
Meat packing	10.7	6.8	-	-	-	-	-	-	17.5
Petroleum	18.2	-	-	-	-	-	-	-	18.2
Yerba Mate	-	-	8.5	-	-	-	-	-	8.5
Livestock	-	2.0	7.0	-	-	1.7	-	-	10.7
Real estate	-	3.6	6.0	-	0.9	-	-	-	10.5
Essential oil and fibers	-	-	4.0	-	-	-	-	-	4.0
Beverages	-	-	1.0	-	-	-	-	-	1.0
Trading	-	-	3.4	-	3.4	-	-	-	6.8
Banking	-	0.5	2.1	-	-	-	2.4	-	5.0
Textiles	-	-	0.8	-	-	-	-	-	0.8
Communica- tion	-	-	0.4	2.8	-	-	-	-	3.2
Electric power	-	-	-	10.4	-	-	-	-	10.4
Railways	-	35.0	-	-	-	-	-	-	35.0
Other	-	-	0.3	-	-	-	-	24.4	24.7
Total	47.3	47.9	47.9	13.2	4.3	1.7	2.4	24.4	189.1
Dollar equiva- lent ^{a/}	15.3	15.6	15.6	4.3	1.4	0.5	0.8	7.9	61.4

Source: Paraguay Industrial y Comercial (Organo Oficial del Ministerio de Economía), (Asunción), Julio de 1949.

^{a/} See footnote 1, page 5.

The figure of 48 million guaranies (\$15 million) representing registered United States investments in 1949 is considerably smaller than the total amount of United States investments in Paraguay as reported by United States authorities:

Table 2. United States Private Investments in Paraguay
(In millions of United States dollars)

1.	Outstanding on 31 May 1943		
	(a) Investments in "controlled" enterprises:		
	Manufacturing	4.9	
	Other	<u>4.5</u>	9.4
	(b) Real estate		0.2
	(c) Miscellaneous		<u>0.4</u>
		Total	10.0
2.	New direct investment 1945-1949 ^{a/}		<u>12.0</u>
		Total	22.0

Sources: United States Treasury Department, Consus of American-Owned Assets in Foreign Countries, (Washington, 1947), pages 68 and 70. United States Department of Commerce, Survey of Current Business, (Washington, D.C.), November 1949, page 23, January 1951, page 23.

^{a/} No figures are available for June 1943 to the end of 1944, but it is believed that the capital inflow during that period was negligible.

The official Paraguayan figure for registered British business investments at the end of 1949, 48 million guaranies, may be compared with an estimate of the South American Journal (London), which relates to the amount of British capital at the end of 1948 invested in Paraguay and quoted on the London stock exchange. Including holdings of sterling bonds of the Government of Paraguay, the investment in question are given at £3.3 million, equivalent to 53 million guaranies.^{1/} Of this sum, £2.8 million or 85 per cent yielded no income during 1948.

The Paraguayan railways, measuring 712 miles, are practically all foreign-owned. Of the total, 274 miles comprise the British-owned Paraguayan Central Railway, the principal railway whose services are available to the public. The Paraguayan Central Railway Company was registered in 1889, when it was formed to acquire a 45-mile line owned by the Paraguayan Government. The additional mileage has been constructed by the company with the assistance of the Government. The company is capitalized at £2.8 million (stocks and bonds). No interest or dividends have been paid on any securities of the company for several years, except on 6 per cent prior lien debenture stock, of which £0.6 million are outstanding.

^{1/} See South American Journal (London), 22 January 1949.

^{1/}Most of the other

Most of the other railway lines in Paraguay are owned by the large foreign-owned lands, cattle, and quebracho companies which operate them primarily to transport their own products.

The meat-packing industry of Paraguay is dominated by three companies - one American, one British, and one Paraguayan. The two foreign companies produce primarily canned meat. The Paraguayan company enjoys monopoly in the domestic market; the two foreign companies produce for export. The American company, the International Products Corporation, owns a plant at San Antonio on the Paraguay River; it also owns and operates a quebracho extract plant. The company owns more than 2 million acres of land and about 90 miles of industrial railroad.^{1/}

The British Company, Liebig's Extract of Meat Company, has large land holdings, and numerous cattle (in 1944 reported at 100,000 head).

The Paraguayan company, Industrial Paraguaya de Carnes S.A., is a co-operative enterprise owned by the Paraguayan Government and by ranchers.

The petroleum investment shown in the above table consists primarily of expenditures on exploration operations by a United States company. It is reported that findings were not sufficiently encouraging to justify continuation, and in October 1950 the company announced the dissolution of its Paraguayan subsidiary and the sale of the subsidiary's equipment.

Production of quebracho extract in Paraguay is dominated by four foreign companies - one American and three Argentine. The American company, as indicated above, is the International Products Corporation, which in 1949 accounted for about 46 per cent of the total production. Besides their quebracho extract plants, the foreign companies own large tracts of land.

At present no important public utility operating in Paraguay is foreign-owned. However, until it was nationalized in accordance with a law of 13 August 1948, the electric power and street railway system serving the city of Asunción and the surrounding area was owned by the Companie Americana de Luz y Tracción, a company incorporated in Argentina in 1914, with a capital of 8 million Argentine pesos.

^{1/} These assets apparently are included in United States investments in quebracho and meat packing. Thus while the above table does not show any United States investments in livestock or cattle, such investments in fact are substantial. If the value of these items could be shown separately, the amount of United States investments in quebracho and meat packing would be reduced.

In accordance with a contract between the company and the Paraguayan Government, approved by a law of 13 August 1948, the properties of the company were sold to the Government for 31.2 million guaranies. Payment was effected (about \$10 million at the official rate of exchange) during the period September 1948-June 1951. The nationality of the stock owners is not known, but of the total purchase price, 48 per cent was to be paid in guaranies, 30 per cent in United States dollars, and 22 per cent in Argentine pesos. (It will be observed that the Paraguayan estimate quoted above puts Swiss investments in electric power at 10.4 million guaranies but does not indicate any investments in that industry by Argentina or the United States.) The balance of the purchase price that remained unpaid at the end of 1949 is not included in the statement of the public debt as of that date set out on page 5 above.

Foreign-owned banks in Paraguay include branches of the Bank of the Argentine Nation, the Bank of Brazil, and the Bank of London and South America.

Statistical information on the balance of international payments of Paraguay for the year 1948 and the first half of 1949 is shown below:

Table 3. Paraguay: Balance of Payments 1948 and January to June 1949

	<u>1948</u>	<u>1949</u> January-June
Inward (+) or outward (-) payments (In millions of United States dollars)		
Merchandise:		
exports f.o.b. ^{a/}	+29.1	+17.0
imports c.i.f. ^{a/}	-30.2	-15.4
Balance	- 1.1	+ 1.6
Miscellaneous services, etc.	- 1.8	- 0.9
Investment yield	- 1.0	- 0.3
Balance of above items	- 3.9	+ 0.4
Long-term capital:		
loans	- 0.7	- 0.4
direct investments ^{b/}	- 1.6	+ 0.4
subscription to International Monetary Fund	- 0.4	-
Short-term capital and monetary gold	+ 7.3	- 0.2
Balance due to errors and omissions	+ 0.7	+ 0.2

Source: International Monetary Fund, Balance of Payments Yearbook 1948 (Washington, D.C., 1950), pages 316-317.

^{a/} Exchange control figures, referring to payments rather than shipments.

^{b/} In 1948 payment for the purchase of the Compania Americana de Luz y Tracción by the Paraguayan Government was equivalent to \$2.7 million; new investments by the Union Oil Company of California partly offset this capital outflow. In the first half of 1949 payment for the Compania Americana amounted to about \$0.8 million, which was more than offset by new investments of the Union Oil Company.

In 1948 the deficit on merchandise and service transactions and the large payments to foreign creditors for the power and light installations and for amortization of the foreign debt resulted in a large decline in foreign exchange reserves and in large increases in liabilities by the Bank of Paraguay to foreign banks. In 1949 the foreign exchange reserves of the Bank of Paraguay further declined; however, there was also a substantial reduction in liabilities to foreign banks.

II. GOVERNMENT POLICY AND FOREIGN INVESTMENTS

The policy of the Paraguayan Government with respect to foreign investment, as reflected in legislation and otherwise, is generally regarded as "relatively favourable".^{1/} There is no formal discrimination between domestically owned and foreign-owned enterprises, and Paraguayan legal requirements for establishing a business enterprise are regarded as "relatively liberal". Foreigners may acquire and hold any property that a national may acquire and own and conduct any business open to nationals.

Except for certain properties adjacent to navigable water, and except for certain riparian and certain subsoil properties, any type of real property may be privately held, and private enterprises may engage in any type of business. Mining rights may be granted to nationals or foreigners without discrimination on the basis of nationality.

Control over transactions in foreign exchange has been in effect since 1932. The provisions which affect foreign enterprises are primarily those relating to delivery of incoming exchange to the authorities and the disposition of such exchange by the authorities.

Under regulations in effect since 5 May 1951 foreign exchange derived from exports up to the "aforo" value^{2/} and from the inflow of registered capital (see below) must be sold to the Bank of Paraguay at fixed rates. A rate of six guaranies per dollar applies to the exchange proceeds from principal exports, such as lumber, quebracho extract, cotton, packing house products, cattle and hides. A rate of nine guaranies per dollar applies to the exchange proceeds from minor or irregular exports and to incoming registered capital. The difference, if any, between the "aforo" value and actual sales value of exports may be retained by the exporter. Exchange to pay for imports may be obtained at rates fixed by the Bank of Paraguay. A rate of six guaranies per dollar applies to essential imports, particularly wheat, fuels and lubricants and products used

^{1/} United States Department of Commerce, International Reference Service, No. 16, Establishing a Business in Paraguay, (Washington, D.C., April 1946), page 1.

^{2/} The "aforo" value of export products is fixed periodically by the Bank of Paraguay on the basis of current prices in international markets for such products.

"for the production of goods and services of unquestionable importance to the economic development of the country".^{1/} This rate also applies to purchases by the Government from the Bank of Paraguay to meet public debt payments. A rate of nine guaranies per dollar applies to essential imports not specifically authorized at the more favourable rate and to outgoing registered capital and income on registered foreign capital.

The Bank of Paraguay also operates a legal "free" exchange market which may be used by incoming and outgoing non-registered foreign capital, by exporters for selling the difference between the "aforo" value and the sales value of exports, and for various other services (including investment income on capital not officially registered) and capital transactions. On 5 March 1951 the "free" rate was 19 guaranies per dollar.

Although not required to do so, newly invested and existing foreign capital may be registered with the Bank of Paraguay. Such registration makes the capital eligible to apply for, but does not guarantee availability of, exchange at the rate of nine guaranies per dollar. Owing to exchange shortages foreign enterprises at the end of 1950 were being authorized to transfer only limited amounts of their income so that substantial amounts of untransferred profits are accumulating. Some relief has been obtained in individual cases through special arrangements with the Bank of Paraguay under which lower "aforo" values are established. The effect of such arrangements is to permit exporters to retain abroad a larger proportion of their export proceeds than would otherwise be the case.

It is required by law that 90 per cent of the workers and 95 per cent of certain other employees of any industrial, banking, or commercial enterprise in Paraguay be of Paraguayan nationality. However, in determining the proportion of nationals to be employed, all technical personnel and other specialists are excluded unless they can be replaced by Paraguayans who, in the judgement of the National Department of Labour, are capable of performing the same duties.

The Paraguayan Government offers certain inducements to encourage the establishment of new enterprises. The inducements, made available on the merits of each case and without regard to nationality of the applicants, generally imply

^{1/} United States Department of Commerce, Foreign Commerce Weekly, 9 April 1951 (Washington, D.C.).

exemption from import duties on machinery and raw materials and from various other forms of taxes.

Incomes from business in Paraguay are taxed under a law of 29 December 1949 which became effective 1 January 1950.^{1/} The law specified categories of income subject to tax and specifically exempts incomes derived from farming (other than cattle raising), the professions, public service and labour. There are fifteen brackets of net taxable income, with rates ranging from 5 per cent on such incomes up to 2,500 guaranios to 19 per cent of net taxable income in excess of 35,000 guaranios. Under a previous law of 1943 rates ranged from 6 to 10 per cent. The tax applies to business incomes of foreign and domestic enterprises alike. Other business taxes appear to be of a minor importance, and there appears to be no discrimination between foreign and domestic enterprises.

Imports are subject to exchange taxes amounting to 2 per cent, 5 per cent or 10 per cent depending on the "essentiality" of the goods; however, imports by foreign companies which have concluded a concession contract with the Government are not subject to these taxes. In March 1951 export taxes, which had previously ranged from 1 to 8 per cent of the "aforo" value of the exports, were raised to 17-33 per cent of that value.

The Paraguayan Government participates in merchant shipping through its Flota Mercante del Estado which transports a small portion of the country's exports and imports, and in rail transportation through its ownership of a small line, the Concepción-Horqueta Railway. A monopoly over the supply and distribution of meat within the country is exercised by the Industrial Paraguaya de Carnes S.A., which is owned jointly by the Government and domestic private investors.

Under a law of 30 August 1947 the National Administration of Public Enterprises was created with authority to engage in quarrying and cattle raising, the manufacture of various products, including wood pulp, paper and cement, and to monopolize the domestic distribution of petroleum products. Thus far this Administration has not been active.

The Government owns and operates the telephone, telegraph, radio and domestic air transport services.

^{1/} See International Monetary Fund, International Financial News Survey, 24 February 1950, (Washington, D.C.).