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

(Prepared by the Secretariat)

FOREIGN INVESTMENTS IN URUGUAY 2/

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/I. THE NATURE OF

I. THE NATURE OF FOREIGN INVESTMENTS IN URUGUAY

A. External public debt

Uruguay's first foreign loan was floated in London in 1864, when 6 per cent bonds amounting to £1 million were issued and the proceeds used to pay internal debt. From 1880 to 1920 the external debt, consisting almost entirely of sterling issues, increased from £3.5 million to £26.7 million, amounting to almost 90 per cent of the total public debt at the end of the period (see Table 1). After 1914 the source of Uruguay's external borrowing shifted to the United States. Between 1915 and 1930 dollar bonds totalling $67.8 million were issued at an average price of 96 per cent of parity with interest rates ranging between 5 and 8 per cent. The proceeds of these dollar bonds were used mainly to finance the acquisition of a railway, to pay and refund some indebtedness, and to construct port facilities, roads, public works and public utilities.

After 1920 the Government's borrowing from domestic sources increased much more rapidly thant from abroad and by 1932 the external debt had declined to 55 per cent of the total public debt.

There were several defaults and adjustments of the external public debt in the nineteenth century, but after the consolidation of all outstanding external debt in 1891 into one 3 1/2 per cent loan, debt service was consistently met until 1915, when sinking fund payments were partly suspended until 1920. Interest

/payments were

payments were met consistently from 1891 until 1932. The onset of the world depression brought a sharp decline in exports and a cessation of the inflow of capital. Sinking fund payments were suspended in January 1932, and after July 1933 interest on the external debt was made payable only in pesos into a blocked account and without taking into account the fact that the exchange value of the peso had depreciated. This evoked a protest by foreign bondholders, and the Government subsequently revised its policy to provide for payments of interest in pesos equivalent to an interest rate of not less than 3 1/2 per cent when converted into the currency required under the loan contracts; but payments were still made into a blocked account.

In 1937, following an improvement in the balance of payments, the Government offered a settlement of the defaulted debt. This involved no change in principal but a reduction in nominal interest rates from the previous rates of 5 to 8 per cent to new rates of 3.5 and 4.3 per cent and an extension of maturities to periods ranging from fifteen to thirty-two years. Practically all bondholders have accepted to this adjustment. Recent quotations of Uruguayan dollar bonds are illustrated by a 4 1/8 per cent issue due in 1979 which was quoted in January 1950 at 85 1/2, yielding 5.1 per cent.

/Table 1

Table 1

External Public Debt of Uruguay, 1865-1949[a/]

(In millions)

End of year	Funded debt: In pounds sterling b/	Funded debt: In dollars	United States Government loans	Total (dollar equivalent)
1865	1.0	-	-	4.8
1875	0.9	-	-	4.4
1880	3.5	-	-	16.9
1890	16.8	-	-	81.7
1900	21.2	-	-	103.2
1910	26.4	-	-	128.7
1920	26.7	1.3	-	131.1
1930	20.1	54.5	-	152.6
1940	19.2	55.0	-	132.5
1949 (estimate)[c/]	16.6	44.6	15.0	106.0

a/ Sources: Data on funded debt from Direccion de Credito Publico, Montevideo; Deuda Pública de la República Oriental del Uruguay, various issues; Banco de la República Oriental del Uruguay; Suplemento Estadístico de la Revista Económica, various issues; and United States Department of Commerce: Clearing Office for Foreign Transactions.

b/ Includes the two French franc issues which were converted into sterling in 1939.

c/ Calculated on the basis of scheduled amortization payments.

It may be observed that before the period of major default in 1932-1933, a considerable portion of the external debt of Uruguay had been repatriated. It is estimated that the external debt actually held abroad in 1932 was about $90 million or slightly more than 70 per cent of the total. At the end of 1948, it was reported that of the outstanding dollar bonds amounting to $45 million (per value) only $13.5 million were held in the United States, the rest

/being held

being held in Uruguay or in other countries.

Following the cessation of international lending in the early 1930's the only further external loans received by the Government of Uruguay have been obtained from the United States Export-Import Bank and the United States Maritime Commission. Loans of $44 million have been authorized by the Export-Import Bank, but $29 million have been cancelled or expired, and only $15 million utilized, chiefly for hydro-electric development and public works projects.

In 1948 the service on the external debt (including Export-Import Bank obligations) as recorded in the balance of payments was $5.7 million or 2.9 per cent of the value of exports. According to estimates of the United States Department of Commerce, interest received on Uruguayan dollar bonds in the United States in 1948 was $0.5 million. Interest and amortization on Export-Import Bank obligations in that year was approximately $0.9 million. The total of interest and amortization on dollar bonds and Export-Import Bank obligations transferred in 1948 may be estimated at close to $2 million or 3.8 per cent of exports to the United States in that year.

B. Direct investments

Estimates of foreign direct investments in Uruguay vary considerably, depending partly upon the definitions employed. The direct investments at the end of 1948 include £10 million ($40 million at the rate of exchange prevailing at that time and

/28 million at

28 million at the present rate) represented investments quoted on the London Stock Exchange, $40 million United States holdings, and an amount of chiefly French investments.[1]

The estimate of French investments is based on the par value of the shares of enterprises in Uruguay that are registered on the London Stock Exchange.[2] These shares amounted to £27 million at the end of 1946, but had fallen to £10 million by the end of 1948, owing to substantial repatriations. The Uruguayan Government has paid or agreed to pay £11.8 million for the repurchase of investments with a par value of £17 million (included in the 1946 figure of £27 million.)

The United Kingdom was the first country investing capital in Uruguayan enterprises in substantial amounts. The bulk of the British direct investments was made before 1913, at which date the par value of the shares outstanding was £20.6 million, about $100 million at the rate of exchange then prevailing, British investments have been made primarily in railways and public utilities. Of the £27 million of investments at the end of 1946, £14,6 represented railway investments and £2.5 investments in utilities. The bulk of these investments was included in the £17 million of British

1/ This estimate does not take into account a substantial amount of capital which flowed into Uruguay for purposes other than direct investments during and since the end of the war. Most of this was invested in government bonds or merely deposited with banks.

2/ This estimate appears in the South-American Journal (London).

investments in utilities. The bulk of these investments was included in the £17 million of British investments liquidated during 1947. The remaining investments are chiefly in a packing house, banks, insurance companies, wholesale and retail trade and some ranches.

United States direct investments in Uruguay have been made mainly since 1911 when a packing plant was established by Swift and Company at Montevideo. Since that time Armour and Company has also established a packing plant in Uruguay and other United States enterprises have established themselves in Uruguay, including National Cash Register Company, Ford Motor Company, General Motors Corporation, United Shoe Machinery Company, Singer Sewing Machine Company, International Business Machines Company, International Harvester Company, J. I. Case Threshing Machine Company, National City Bank of New Yord, Eastman Kodak Company, General Electric Company, Eastern Electric Company, Otis Elevator Company, Dupont, Standard Oil Company, Lone Star Cement Company, and the Texas Oil Company.

The value of United States direct investments in Uruguay has fluctuated considerably, declining from $27.9 million in 1929 to $10.9 million in 1940, and rising to $24.2 million in 1942 and $40.4 million in 1948 (see table 2). The changes prior to 1942 are believed to reflect primarily variations in the exchange values of the Uruguayan peso and in the book value of individual companies.

/however

However, of the increase of $16.2 million from 1942 to the end of 1948, $12.6 million represents the flow of fresh capital from the United States into Uruguay and $3.6 million the reinvestment of earnings. These amounts represent additional investments in existing establishments in Uruguay; no new United States-owned enterprises of substantial proportions are known to have been established in recent years. United States investments in Uruguay are primarily in manufacturing (including meat packing), and it is in this field of investment that most of the recent increase in United States investments has taken place.

Table 2

United States Direct Investments in Uruguay[a]

(In millions of dollars)

	1929	1936	1940	1943	1948[b]
Manufacturing	15.6	7.6	5.7	16.8	28.1
Distribution	5.1	2.9	2.5	2.8	6.0
Petroleum	3.2	c/	2.4	3.3	5.0
Miscellaneous	4.0	3.4	.3	1.3	1.3
Total	27.9	13.9	10.9	24.2	40.4

a/ Sources: For 1929, 1936 and 1940, United States Department of Commerce, American Direct Investments in Foreign Countries, various years; for 1943, United States Treasury Department, Census of American-Owned Assets in Foreign Countries (1947). These figures represent "book" values. The estimates for 1943 and 1948 exclude a deficit of $18.6 million which appeared in the accounts of certain companies in 1943. It is believed that the major portion of this deficit is attributable to a company domiciled in Uruguay which is a holding company for investments in several Latin American countries and that only a small part, if any, of the deficit is attributable to the Uruguayan enterprises owned by the holding company.

b/ Estimated on the basis of figures for the net outflow of United States capital published by the United States Department of Commerce, and including reinvested earnings of subsidiaries amounting to an estimated $3.6 million during the period 1943-1947.

c/ Included in "miscellaneous".

French investments of perhaps $9 million at the end of 1948 were mainly in ranches and banks.[1] German investments, amounting to an estimated $2 million before the war, have been transferred to Uruguayan ownership.

1/ See J. F. Rippy, "French Investments in Latin America", Inter-American Economic Affairs, (autumn 1948).

/II. ECONOMIC

II. ECONOMIC SIGNIFICANCE OF FOREIGN INVESTMENTS

A. Industrial distribution

Railways

With a total of 1883 miles Uruguay has more railway milsage in proportion to area than any other Latin American country and more in proportion to population than any Latin American country except Argentina. About 80 per cent of the total mileage of Uruguay's railway system was contructed, and, until the beginning of 1949, owned and operated by British capital. Of the remaining 20 per cent a small portion was also constructed by the British capital, but most of it was built by the Uruguayan Government, which operated all of the 20 per cent. In accordance with a contract approved by the Uruguayan Government on 31 December 1948, the Government acquired all the British-owned railways in Uruguay. As a consequence the Uruguayan Government is now the sole owner and operator of railways in Uruguay.

British interest in Uruguayan railways began in 1865 with theobtaining of a concession for building a line from Montevideo to Durango, about 127 miles to the north on the Rio Negro. This concession was followed by others, and by 1887 all except one of the railway companies that were later to comprise the privately-owned railway system of the country had been formed.

The original concessions under which construction of the railways was carried out provided for subtantial assistance from the Uruguayan Government. This assistance was mainly in the

/form

form of guaranteed earnings by the companies for periods of 40 years in most instances. The amount of the guaranteed earnings varied, but in several cases it was originally 7 per cent on a maximum capital outlay of £5,000 per kilometre of line and was subsequently reduced to 3 1/2 per cent. Important tax benefits were also granted to encourage railway building. Some concessions provided for reversion of the properties to the Government, without compensation, ninety years after the opening of lines to traffic, or after twenty-five years upon payment of £5,000 per kilometre of line plus 20 per cent.

Purchase of the railways by the Uruguayan Government in 1948 was the culmination of a programme initiated prior to the first world war. The first step was the acquisition by the government in January 1915 of the Northern Railway, a 19.5 kilometre line constructed in 1878. Acquisition of the British-owned railways by the Uruguayan government was carried out in accordance with a contract negotiated by representatives of the interested parties and ratified by the Uruguayan Congress on 31 December 1948. It provided for the purchase by the government of the companies' properties in Uruguay, except cash and bank balances, for a price of about £7.2 million or 47.4 per cent of the book value of the securities of the companies outstanding in June 1947.

Tramways

Foreign capital has participated in Uruguayan tramways only in the city of Montevideo, where service was for many years

/provided

provided by two companies, a British-owned United Electric Tramways of Montevideo, formed in 1904, and a subsidiary of a German-controlled company. The latter was absorbed by the British company in 1926, and in December 1947 an agreement was signed by the city of Montevideo and the British-owned company providing for the purchase by the city of the company's property for 11.7 million pesos, about £1.4 million pesos, about £1.4 million at the then prevailing rate.

Montevideo water works and gas supply

The water supply system of the City of Montevideo was developed by the Montevideo Water Works Company, a British company registered in 1878. Under a contract between the company and the Uruguayan government signed in December 1948 and approved by the Uruguayan Congress on 11 October 1949 the company's properties in Uruguay were sold and the Uruguayan government paid £3 million.1/ Gas is supplied in the city of Montevideo by the Montevideo Gas and Dry Dock Company, a British company organized in 1872.

Telephone system

Foreign capital has not participated extensively in the telephone industry in Uruguay except in the city of Montevideo. The Montevideo Telephone Company, a British concern, was organized in 1888 to acquire and consolidate Uruguayan-owned

1/ Diario Oficial, (Montevideo, 31 October 1949).

/telephone

telephone enterprises. In 1927 control of the Company was acquired by United States interests, which in turn transferred it to the Uruguayan government in December 1944. This transfer was based on an agreement entered into in 1933 between the company and the Administración General de las Usinas Electricas y Teléfonos del Estado (UTE), an agency of the Uruguayan government, which provided for acquisition by UTE any time after 1936 at a predetermined price.

Meat packing

Foreign capital is represented in the meat packing industry by three corporations, two American-owned and one British-owned. The British Enterprise Company was established in Uruguay in 1865 and the American concerns in 1912 and 1916. Their significance in the economy of the country is indicated by the fact that under an Uruguayan regulation issued in March 1949 foreign-owned companies are asigned a quota of 65 per cent of total exports of meat products from Uruguay. The foreign companies produce only for the export market, however, the domestic market being reserved exclusively for the Frigorífico Nacional, a packing plant owned by the Uruguayan government, and for domestically-owned private plants. In addition to enjoying a monopoly in the domestic market, the Frigorífico Nacional and the domestically-owned private plants supply 23 per cent an 12 per cent, respectively, of total exports.

/Banking

Banking

Foreign-owned banks are relatively unimportant in Uruguay. At the end of 1948 foreign banks had about 11.7 per cent of the capital and reserves of all private banks in Uruguay.1/ Deposits in the foreign banks were equivalent to 15.4 per cent of total deposits in all private banks, and loans were equivalent to 14.8 per cent of total loans by private banks. At the end of 1947 there were sixty-nine private banks in Uruguay of which eight, all located in Montevideo, were foreign. Of these foreign banks, one was American-owned, one British, and one Canadian.

Insurance

Although branches of twelve foreign insurance companies (nine British, two French and one Swiss) operate in Uruguay, operations of these companies are of little importance in the insurance business in Uruguay. This is due to the establishment in 1911 of the state-owned Banco de Seguros del Estado and the granting of authority to it to monopolize, whenever it seems appropriate any class of insurance risk in Uruguay. The Banco writes insurance in all fields but there are some branches, including fire, life and marine insurance, in which it has not invoked its monopoly rights. Activities of the foreign companies are confined largely to these risks.

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1/ Banco de la República Oriental del Uruguay, Suplemento Estadístico, (1949)

/Miscellaneous

Miscellaneous

A substantial number of foreign manufacturers have established branches in Uruguay to engage in the importation, distribution and servicing of their products. With the possible exception of assembling, few if any of these concerns extensively process their products in Uruguay. Reference has already been made to a number of leading United States manufacturing enterprises with branches or subsidiaries of this character in Uruguay.

B. Foreign investment and economic development

Foreign capital has made a substantial contribution to the economic development of Uruguay, both through external loans and direct investments. Except in railways and the meat packing industry, however, foreign direct investments have not occupied as prominent a place in the Uruguayan economy as in many other under-developed countries. This is due both to the nature of the Uruguayan economy and to the policy of the government, which has established numerous public utility, industrial and commercial enterprises during the past forty years.

If public utilities are disregarded, Uruguay has until recently, attracted private direct investments into only one important industry, meat packing. That industry, with the aid of foreign capital, has been developed to the point at which it constitutes the backbone of the national economy. The country has no known important deposits of petroleum or other minerals, which have been the object of investment of foreign capital in many countries. Thus far, the Uruguayan domestic market has been relatively small and has not proved attractive to large manufacturing establishments. There has, however, been some expansion of small-scale manufacturing enterprises recently, and as shown in table 2, some influx of United States capital into investments in manufacturing has occurred since the end of the war.[1/]

The importance of governmental enterprises in the Uruguayan economy is discussed in section III below.

C. Foreign investments and the balance of payments

A summary of the balance of payments of Uruguay in recent years is shown in table 3. During the nine-year period 1940-1948 there was a net surplus of $57 million on account of merchandise trade, a net surplus of $9 million on account of services, and a net inflow of long-term capital, private and governmental, of $105 million. As a consequence the gold and foreign exchange holdings of the country rose from $76 million at the end of 1939

1/ The industrial census of 1936 listed over 11,000 establishments with a total personnel of 105,000, of which about 25,000 are estimated to have been employed in fairly large establishments. (See George Wythe, Industry in Latin America, New York, 1949, pages 128-129). Only 16 of the 11,000 establishments employed more than 500 workers, and about half of these were meat refrigerating and packing plants. Estimates place the net value of industrial production in 1947 at 280 million pesos compared with a net value of agricultural-pastoral production of 320 million pesos.

/and to $241 million

and to $241 million at the end of 1948. It will be observed, however, that the war-time surpluses on current account were reversed in 1947 and 1948. The gold and foreign exchange holdings declined from $241 million at the end of 1948 to $220 million at the end of August 1949. Since exports exceeded imports by $23.9 million during the first nine months of 1949, the reduction in gold and foreign exchange reserves is presumably due mainly to the payment for the British-owned railways amounting to $28.6 million, and a reduction of $27 million in the foreign-owned balances in the Central Bank of Uruguay during the first nine months of the year.

An important feature of the Uruguayan balance of payments in recent years has been the combination of a considerable export surplus with European countries with inconvertible currencies and a deficit with some countries in the Western Hemisphere. The repatriation of British investments in Uruguay was rendered possible by the accumulation of inconvertible sterling balances. It should be added that during recent years imports, particularly from the United States have been subject to controls.

It can be seen from Table 3 that the inflow of long-term capital since the end of the war has been much smaller than that largely of "refugee" capital which occurred during the years 1943 to 1945. A large gross inflow of private long-term capital of $26 million was recorded in 1947, but the amount of such inflow

/in 1948 declined

in 1948 declined to $5 million. It has been pointed out previously that the value of United States direct investments in Uruguay rose from $24.2 million in 1943 to an estimated $40 million in 1948, but a substantial portion of this increase represented the reinvestment of earnings of branches and subsidiaries.

Table 3

Balance of Payments of Uruguay, 1940-1948[a/]

(In millions of dollars)

Year	Merchandise	Services	Total current account	Long-term capital	Gold and short-term capital	Errors and omissions
1940	+ 19.1	- 0.1	+ 19.0	- 0.8	- 15.5	- 2.6
1941	+ 9.8	- 3.5	+ 6.3	+ 1.8	- 9.8	+ 1.8
1942	- 8.6	- 4.0	- 12.6	- 2.0	+ 14.5	+ 0.1
1943	+ 38.1	- 4.1	+ 34.0	+ 24.8	- 59.7	+ 0.9
1944	+ 27.1	- 1.0	+ 26.1	+ 34.4	- 58.9	- 1.5
1945	+ 29.6	+ 1.4	+ 31.0	+ 15.7	- 45.1	- 1.6
1946	+ 8.9	+ 2.8	+ 11.7	+ 9.6	- 22.8	+ 1.8
1947	- 47.7	+ 8.3	- 39.4	+ 16.8	+ 20.6	+ 2.2
1948	- 18.9	+ 7.0	- 11.9	+ 4.3	+ 10.0	- 2.4
Total	+ 57.3	+ 7.2	+ 64.5	+104.6	-165.5	+ 1.3

a/ Source: Revista del Banco de la Republica Oriental del Uruguay (Montevideo, various issues). In current, and long-term capital accounts (+) sign indicates excess of receipts and (-) an excess of payments; in gold and short-term capital account (-) indicates an increase and (+) a decrease in holdings.

In 1948 the total yield of foreign investments and amortization of the external debt recorded in the balance of payments was $9.7 million, of which service on the external debt was $5.7 million.

./The income

The income and amortization represented 5 per cent of the value of total exports in 1948, but this includes reinvested earnings of branch plants; hence, the actual amount transferred represented a somewhat smaller share of exports. The income from United States direct investments (including reinvested earnings of branches but excluding those of subsidiaries) was $2.2 million in 1946 (the latest year for which data are available), which represented 4.7 per cent of Uruguay's exports to the United States in that year. The addition of service of external debt due in dollars (including Export-Import Bank obligations), estimated above at about $2 million in 1948, would raise the proportion of Uruguay's dollar exports represented by income and amortization on United States-owned investments in recent years to about 8.0 per cent. Transfers arising from foreign investments have recently not been hampered by exchange control except in the case of countries with which Uruguay has had payments agreements. Thus the transfers to the United States on account of foreign investments have not been limited by exchange control.

The total earnings of United States direct investments in Uruguay (including reinvested earnings both of branches and of subsidiaries) are estimated by the United States Department of Commerce to have been $2.8 million in 1946. On the basis of the estimated value of direct investments in 1946 the yields in 1946 represented about 8 per cent of the capital invested. Comparable

/data for

data for British investments are not available. Statistics of dividends paid on British investments as a percentage of the par value of shares representing such investments are available, however. If the recently sold railways are excluded, the yield (which exclude reinvested earnings and do not include earnings of investments not registered on the London Stock Exchange) during the years 1946 to 1948 was 5.3, 6.6 and 6.8 per cent respectively. Inclusion of the railway investments would reduce the average rate of return to 2.8 per cent in 1946 and 3.1 per cent in 1947.

III. GOVERNMENT POLICY AND FOREIGN INVESTMENTS

A. Entry, Status and control of foreign investments

Except in a very few cases, neither the Uruguayan Constitution nor legislative or administrative action makes any distinction between nationals of the country and foreigners with respect to the ownership of property and the right to establish and operate business enterprises. There is no general limitation on the extent to which foreign capital may participate in private commercial or industrial enterprises. Private enterprise has been excluded from several activities which are monopolized by the government, but such exclusion is applicable to nationals as well as foreigners. A minor regulation in the interest of national defense limits the property rights of foreigners in certain so-called "security zones". The right to engage in mining is restricted to Uruguayan citizens and to enterprises domicilied in the country, but such enterprises

/may be

may be foreign-owned.

The application of exchange control to remittances on account of foreign investments is described separately below. At present there exist no restrictions on the inflow of capital from abroad with the exception of capital transferred in the currencies of certain countries with which Uruguay has payments agreements. These include British pounds, French francs, Belgian francs, Dutch florins, and Swedish kronor, the remittance of which for capital transfers requires prior approval by the central bank of Uruguay. It would appear that the present relative freedom from exchange control of incoming capital represents a change in the situation prevailing during the war and until 1947. Under the previous arrangements the central bank exercised a general control over all incoming capital and authorized the entry of capital only for investments in commerce or "any legitimate industry" regarded as beneficial to the national economy.1/ Presumably this control sought to restrict the inflow of capital seeking temporary refuge or speculative outlets in Uruguay rather than long-term investments of a productive nature.

Article 31 of the Constitution, dealing with the inviolability of property rights of individuals and enterprises, states that "no one may be deprived of his property rights except in cases of public necessity or use established by law, and in all such cases just and

1/ Inter-American Development Commission, Laws of Uruguay, (Washington; 1947), page 14.

/prior compensation

prior compensation must be paid. ...When expropriation is ordered because of public necessity or use, the property owners shall receive indemnities for loss and damage suffered as a consequence, whether or not the expropriation is consummated." Uruguay was among the Latin American countries participating in the drafting of the Economic Agreement of Bogotá at the Ninth International Conference of American States in May 1948. With respect to the provisions of the Agreement relating to the status of private foreign investments and specifically to compensation to be paid in the event of expropriation, the Uruguayan delegation made the following declaration:

> "The Delegation of Uruguay understands that Chapter IV grants foreign capital entering its country no guarantee not already afforded by constitutional provisions. And, with regard to Article 25, it considers that the express reference to the constitution, in matters relative to the system of expropriation and payment therefor, is unnecessary because constitutional provisions always govern the settlement of all situations, since all inhabitants are subject to the jurisdiction of the national courts". 1/

Private business enterprises are not required by law to employ a fixed percentage of Uruguayan nationals nor to pay a fixed percentage of their wage disbursements to such nationals.

1/ The text of Article 25 of the draft Economic Agreement of Bogotá is as follows:

"The States shall take no discriminatory action against investments by virtue of which foreign enterprises or capital may be deprived of legally acquired property rights, for reasons or under conditions different from those that the Constitution or laws of each country provide for the expropriation of national property. Any expropriation shall be accompanied by payment of a fair price in prompt, adequate and effective manner.

/However,

However, enterprises contemplating the employment of a large number of employees are sometimes required, under a special clause in their charter of incorporation, to engage a certain percentage of Uruguayan nationals, which has varied from 60 to 90 per cent. There are no restrictions on the immigration or employment of foreign technical, managerial or administrative personnel nor is there any limitation on foreign membership in the board of directors of an enterprise. Extensive social legislation exists in Uruguay but is applied without discrimination as to nationality of ownership of the enterprise.

B. Government participation in the economy

During the last four decades the Government of Uruguay has increasingly participated directly in economic life through public ownership and operation of utilities and various industrial, commercial and financial enterprises. The programme of public ownership is principally the product of a social, political and economic reform movement initiated during the administration of President José Battle y Ordóñez in 1911. In some cases the government has operated monopolies and in others has established enterprises competing with private enterprises. Public ownership has in some cases been acquired by negotiated purchase; in others the government has supplied the original capital.

Government participation in businesses in Uruguay is exercised mainly through autonomous entities created by special legislation. These entities are organized with a view to promoting efficiency

/and to assuring

and to assuring independence from political control. They are usually allowed to operate as independent corporations under the management of a board of directors (appointed by the President, with the consent of the Senate) and with separate budgets.

Through its various agencies the government operates what approaches a monopoly of all forms of insurance; it manufactures alcohol and alcoholic beverages; refines petroleum, produces cement; imports coal and cement, manages a meat packing plant, operates fishing trawlers and processes fishery products; manufactures industrial chemicals, including fertilizer; and owns and operates the nation's railway, telephone and telegraph systems and port facilities, as well as the principal electric power facilities and the water supply systems of the City of Montevideo. These activities are described below.

<u>Electricity and communications</u>

The State Electric Power and Telephone Company (UTE) was organized in 1912 and authorized to exercise a monopoly of the supply of electric light and power throughout the country. By 1936 UTE had made electric power available to most of the cities and larger towns of the country. In some instances this State enterprise absorbed privately-owned plants already in operation and provided new facilities for others. By 1947 all electric power service in the Republic was owned and operated by UTE.

In 1931 UTE was authorized to exercise a monopoly over the telephone service of Uruguay. Modern telephone facilities were

/installed

installed in Montevideo by 1935. By 1947 control over the nation's entire telephone system, including telephonic communication by cable, had been effected.

In 1935 UTE was also authorized to assume charge of investigation and exploitation of mineral deposits.

The Rio Negro hydro-electric project (RIONE) was initiated in 1934 by a decree which authorized the construction of a dam at Nincon del Bonete. Construction of this project was entrusted to this special commission and completed in 1949. UTE assumed the management and operation of the plant.

The telegraph services of Uruguay are entirely Government-owned and are operated as a public monopoly by the Office of Communication (Dirección de Comunicaciones) under the supervision of the Ministry of Defence. This office also operates a commercial radio service.

The State Railway Administration (Ferrocarriles y Tranvías del Estado) now owns and operates all railways in the country.

It has been observed above that the British-owned lines were acquired by the State in December 1948 completing government ownership of the Uruguayan railway system. Prior to this acquisition about 20 per cent of the lines serving the country were owned and operated by the government.

Water works

A privately-owned water works was opened in Montevideo in 1871. The Government granted the company a twenty-year monoply of the

/sale

sale of water in the capital, along with certain benefits such as exemption from taxes and import duties and monthly subsidy payments.

In December 1948 a contract was signed for the purchase by the Uruguayan government of the Montevideo Water Works Company. By 1949 most of the country's water supply system (including Montevideo) was owned and operated by the national government.

Port administration

The National Port Administration (Administración Nacional de Puertos) was created in 1915 and vested with authority to assume a monopoly over all or part of the services of the port of Montevideo. However, this monopoly was not exercised until 1932. The Port Administration also manages the other Uruguayan ports. In 1930 it undertook the operation of steamer service on the Uruguay River. Since 1941, the National Port Administration has operated ocean shipping services, using ships of foreign registry taken over by the Government during the last war and some vessels purchased especially for its use.

Meat packing and other food production

The State Packing Plant (Frigorífico Nacional) was organized in 1925 and authorized to exercise a monopoly of meat slaughter and packing for distribution in Montevideo. It was also authorized to build a plant but instead in 1933 purchased a plant already in operation. The purposes of the establishment of the State Packing Plant were to raise livestock prices and improve the distribution of fresh meat in Montevideo.

Frigorífico Nacional competes with privately-financed companies in markets other than Montevideo, especially in the export market. At the present time it has approximately 23 per cent of the export market for meat.

In 1923 the former Institute of Fisheries (Instituto de Pesca) organized in 1911, was reorganized to function under the Ministry of Defence under the title of Oceanographic and Fisheries Service, "SOYP" (Servicio Oceanográfico y de Pesca). This organization was authorized to stimulate the consumption of fish, to initiate measures for improving the distribution of fish products to consumers and to conduct scientific research related to the fishing industry.

The commercial activities of SOYP are now its major function. It sells fresh fish to wholesalers and in the retail market in Montevideo, and is responsible for about half the commercial catch of the nation. SOYP operates several trawlers and fishing boats, a warehouse, a processing plant and an ice factory. In addition to fresh fish, it provides dried and canned fish, and fish oil and meal, to consumers.

The National Cooperative of Milk Producers ("Conaprole") was created in 1935. All producers of milk may join this organization, which is owned jointly by governmental and private capital. "Conaprole" exercises a monopoly over milk processing and distributio

/in Montevideo

in Montevideo, as well as for export.

Manufacturing

The National Fuel, Alcohol and Cement Administration (ANCAP) was created in 1931 and authorized to exercise a monopoly of the importation, manufacture and sale of fuels, alcoholic beverages and sale of fuels, alcoholic beverages and cement. It exercises a monopoly over the importation and sale of coal and over the refining of petroleum, but distribution of petroleum products is shared with private companies. It also maintains a monopoly over alcohol distillation and is the exclusive supplier of cement for public works. Although so authorized by a law of 1931 ANCAP has not yet constructed and operated a cement plant.

The chief activities of ANCAP since 1937 have been concerned with the importation, refining and sale of petroleum. All gasoline consumed in Uruguay is currently refined at the La Teja refinery near Montevideo. Nearly 50 per cent of retail sales of gasoline in the country are made by ANCAP itself. By 1929 its facilities were adequate to supply domestic requirements of sulphuric acid. At present ANCAP plants also produce copper sulphate, fertilizers, caustic soda and phosphates.

By an agreement concluded in 1938, private companies retailing their own brands of gasoline are permitted to import the crude oil necessary for their operations, but all refining must be done by the ANCAP plant. Sales quotas have been fixed for each company.

/Insurance

Insurance and banking

The governmental Insurance Bank (Banco de Seguros) was founded in 1911 for the purpose of gradually establishing a monopoly over all types of insurance. By 1926 the Insurance Bank had practically monopolized a wide variety of insurance on risks other than those covered by life and fire insurance, and a formal monopoly was decreed over the types of insurance so controlled. The authority to monopolize life and fire insurance has not been invoked and the Insurance Bank competes in these fields with private insurance companies. However, under a law of 1926 no new private insurance companies of any type may be formed to underwrite risks in competition with the Bank.

Agricultural credit has long been provided by two state banks, the Banco de la República (Central Bank) and the Banco Hipotecario del Uruguay (State Mortgage Bank).

During its early years of operation the Banco de la República, organized in 1896, concerned itself principally with the extension of low-cost credit to farmers. In granting such loans, particular emphasis was placed on the encouragement of small-scale land ownership and improvement.

The State Mortgage Bank, organized in 1912, and reorganized in 1934 has a monopoly of the issue of bonds, mortgages and other securities on the property of third parties. The Mortgage Bank also has a promotional function, in encouraging and facilitating

/ownership

ownership of both urban and rural homes. It has been especially interested in aiding small-scale land ownership among farmers, and has undertaken to promote immigration and the development of rural areas.

C. Exchange control

The Uruguayan Government has exercised control over foreign exchange transactions since 1931. This control, however, has been concerned primarily with transactions arising from the exportation and importation of commodities, with respect to which a system of multiple rates has been established. Uruguay is a member of the International Monetary Fund, but has not yet submitted a par value for the Fund's concurrence. All exports and imports are licensed and there are three official buying and three official selling rates as well as a "free market" rate. "Essential" imports are effected at the rate of 1.9 pesos per dollar, and "non-essential" imports at the rate of 2.5 pesos per dollar. Payments on account of income from foreign investments, transfers of capital and other invisible items are effected through the free market, currently at the rate of 3.1 pesos per dollar. Incoming capital may be transferred at the free market rate. An exchange tax of one-half of one per cent is charged on exchange purchases and of three-quarters of one per cent on exchange sales.

Transfers on account of foreign investments are now, and for the past several years have been, free from official control except in respect of currencies of countries with which Uruguay has

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entered into payments agreements. As noted above, this control affects primarily countries of western Europe and does not affect transfers to or from the United States. Remittances arising from investments involving the currencies of the countries with which Uruguay has payments agreements require the prior approval of the Central Bank. The control in respect of such transactions is aimed primarily at controlling the excessive accumulation of "soft" currencies rather than at rationing scarce supplies of foreign exchange, as in the typical case of exchange control over remittances on account of capital. In addition to the formal controls mentioned there is also a "gentlemen's agreement" between the Central Bank and the commercial banks, under which the latter undertake to avoid remittances on account of capital for speculative or other questionable purposes and to consult with the Central Bank before undertaking relatively large transfers.

D. Taxation

For tax purposes no distinction is made in Uruguayan law between foreign and domestic nationals or enterprises. The Uruguayan tax system is notable for the absence of an income tax of the type found in most countries. There is, however, a tax on business profits which is based on the rate of return on invested capital. For purposes of this law taxable profits are defined to include all increases in the assets of the enterprise, after deduction of operating costs and depreciation. The tax does not apply to profits of less than 12 per cent of invested

/capital

capital and varies from 20 per cent on the amount of profits in excess of 12 per cent and below 15 per cent of invested capital to 50 per cent on the amount of profits in excess of 40 per cent of invested capital. The tax applies only to profits attributable to business operations conducted within Uruguay.

Other taxes in Uruguay are comparable in nature to taxes in most countries, including a sales tax, real estate tax, an inheritance tax and social security taxes. There is also a moderate "business operations tax" applicable to commercial and industrial enterprises and to incomes from professional activities.

The executive authorities may grant various privileges to newly-established manufacturing enterprises, including exemption from certain taxes for a specified period. Indefinite tax exemption is enjoyed only by independent governmental agencies or by so-called mixed enterprises organized jointly with governmental and private capital.

E. Commercial policy

The Uruguayan tariff has been used both to produce revenue and to protect domestic industries from foreign competition. The basis of the present tariff is the Customs Law of 1888 which established a general *ad valorem* rate of 31 per cent on all imports except those specifically enumerated. Subsequent amendments of the Law of 1888 have tended to raise duties on articles similar to those manufactured in Uruguay and reduce those on raw materials and machinery needed by industry. In October 1931

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the basic import duty was increased from 31 per cent to 48 per cent on 550 items considered similar to domestically-manufactured goods. In recent years imports of machinery and part required by local industry have been completely exempted for a fixed period of years.

Since 1931 the protective effect of the tariff has been suplemented by exchange controls and related import controls. The incorporation of a system of multiple rates into the exchange control system with higher selling rates applicable to non-essential imports has, in effect, accorded a degree of protection to such imports.

It is reported that the industries most dependent upon tariff protection at present are electrical equipment, hardware, some metal manufactures, cotton and silk weaving and knitting, rubber manufactures, heavy chemicals and some types of paper.1/ In view of the limited nature and extent of foreign investment in manufacturing thus far it would appear that tariff protection has not been sufficient to overcome other factors affecting such investments in Uruguay.

F. The United States-Uruguay Treaty of 1949

The most important recent expression of policy toward private foreign investment by the Government of Uruguay is contained in a "Treaty of Friendship, Commerce, and Economic Development" concluded with the United States and signed on 23 November 1949.

1/ See George Wythe, Industry in Latin America (New York; 1949) page 139.

/The treaty

The treaty now awaits ratification by the legislatures of the two countries. An analysis of the sections of the treaty relating to foreign investment is contained in a report prepared by the United Nations Secretariat entitled Survey of Policies Affecting Private Foreign Investment (document E/1614/Rev.1, 8 March 1950, page 45-49). In order to facilitate comparison of the main features of the treaty with the present policies of Uruguay, however, the substance of this analysis is presented below.

In addition to provisions referring explicitly to foreign investments, the United States-Uruguay Treaty includes clauses relating to the civil rights of nationals, to shipping and to various aspects of commercial policy, the last being similar to corresponding provisions of the Havana Charter for an International Trade Organization (ITO). The provisions relating to foreign investment, however, are more specific than those of the Havana Charter and contain greater commitments on the part of the capital-importing country with respect to the right of entry and the scope of operations and the rights of foreign investors. The most important clauses cover (1) general principles governing the operations of foreign capital; (2) entry, control and management of foreign investments; (3) nationalization and expropriation; and (4) foreign exchange restrictions.

General principles

The basic principles governing the treatment of foreign capital are in many respects similar to article 11 of the Havana Charter.

/The capital-

The capital-importing country undertakes to "take no unreasonable or discriminatory measures that would impair the legally acquired rights or interests" of the nationals and companies of the capital-exporting country, and not to deny opportunities and facilities for investments "without appropriate reason". With several exceptions, the entry and operations of foreign investments are governed by the principle of "national" treatment.[1/] Where such treatment is not accorded, most-favoured-nation treatment is the governing principle.[2/]

Entry, control and management of foreign investments

Nationals and companies of the capital-exporting country are accorded national treatment in respect of entry into commerce, manufacturing, processing, finance (other than deposit banking), construction and publishing. In addition nationals and companies of the capital-exporting country may organize subsidiary companies under the laws of the capital-importing country in these industries

1/ The following definition of "national" treatment is contained in the treaty: "The term 'national treatment' means treatment accord within the territories of a High Contracting Party upon terms no less favourable than the treatment accorded therein, in like situations, to nationals, companies, products, vessels or other objects, as the case may be, of such Party."

2/ In the United States-Italian Treaty provisions for "national" treatment are, in most cases, paralleled by provisions for most-favoured-nation treatment, implying that any special concession granted to foreign investors from a third country more favourable than national treatment shall be accorded to the other signatory. In the United States-Uruguay Treaty, however, the general rule is "national" treatment, with most-favoured-nation treatment as an alternative principle in only a relatively few cases.

/as well

as well as in mining and have the right to control and manage such enterprises and operate them on the basis of "national" treatment. In these industries the requirement of a minimum percentage of domestic ownership is prohibited if such requirement interferes with effective control and management of the enterprise. The major sectors of the economy in which entry of foreign capital on the same terms as national capital is not provided by the treaty are agriculture, public utilities, transportation and deposit banking. As noted above, entry into mining may be limited to locally-organized companies, but participation by foreign capital in such companies is not limited. Foreign enterprises are explicitly accorded the right to employ technical experts, executive personnal and other "specialized employees" regardless of nationality. These provisions put foreign-owned enterprise on the same footing as enterprises owned by domestic nationals in pratically all important aspects of ownership and operation.

Nationalization and expropriation

In the event of nationalization or other forms of expropriation, foreign investors are accorded no less than "national" treatment and it is provided in addition that "any expropriation shall be made in accordance with the applicable laws, which shall at least assure the payment of just compensation in a prompt, adequate, and effective manner". These principles apply not only to enterprises in which there is a majority foreign interest but also to those with a "substantial" foreign interest. While no definitions are

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included of what is to be considered "just", "prompt", "adequate" and "effective", specific provision is contained in a clause relating to exchange restrictions for favourable treatment of the transfer of amounts payable as compensation for nationalized or expropriated property.

Taxation

Taxation of foreign investments is generally governed by the principles of "national" treatment. It is explicitly provided that no taxes shall be levied on foreign enterprises except those reasonably allocable to operations in the territory of the capital-importing country. The tax provisions are subject, however, to the right of the capital-importing country to accord preferential tax treatment to nationals and companies of foreign countries with which special agreements have been made on the basis of reciprocity or through treaties for the avoidance of double taxation. The treaty itself does not deal with double taxation.

Exchange control

The treaty establishes the principle of freedom from control or remittances arising from foreign investments (including compensation in the event of expropriation) except in periods of "exchange stringency", during which the capital-importing country may apply restrictions to assure the availability of foreign exchange for payments of goods and services "essential to the health and welfare" of its people.

In the event of an "exchange stringency" the treaty provides

/that the

that the capital-importing country is under the obligation to make reasonable and specific provision" for transfers arising from foreign investments and to consult with the capital-exporting country regarding these provisions. If multiple rates of exchange are in effect, the rate applied to transfers related to foreign investments shall be "just and reasonable", and in any event shall be based on the principles of both "national" and most-favoured-nation treatment.

Other provisions

Several exceptions to the general rule of non-discrimination are contained in the treaty. These include the right to apply measures regulating the production of military supplies, measures necessary to fulfill the country's obligations for maintenance or restoration of international peace and security, or necessary to protect its "essential security interests". An arbitration clause provides that any dispute between the signatories as to the interpretation or application of the treaty not satisfactorily adjusted by diplomacy or other pacific means shall be submitted to the International Court of Justice.

A comparison of the treaty's provisions with the existing laws and regulations affecting foreign investments in Uruguay as described above indicates that its ratification would not entail any substantial change in the existing legislation and policies affecting United States investments in Uruguay.
