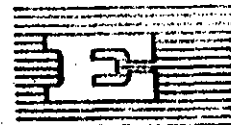


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LEGAL AND ECONOMIC CONDITIONS AFFECTING FOREIGN INVESTMENTS
IN SELECTED COUNTRIES OF LATIN AMERICA

(Prepared by the Secretariat)

POLICIES AFFECTING FOREIGN INVESTMENTS IN GUATEMALA

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INTRODUCTION

Foreign capital in Guatemala is represented largely by direct investments of United States-owned corporations. The value of these investments as of 31 May 1943^{1/} was reported as \$87.3 million. During the four year period 1945-1948 a net additional inflow of \$31 million^{2/} of capital from the United States for direct investment was recorded.

Close to 95 per cent of United States investments in Guatemala in 1943 consisted of enterprises in public utilities, including transportation and agriculture. The net inflow of capital during 1945-1947 went almost exclusively into agricultural enterprises. No figures for the distribution by industries of the \$13 million entering in 1948 are available, but it is likely that the bulk of this sum was absorbed by agriculture, though part was also invested in public utilities.

The branches and subsidiaries of three United States corporations account for almost all the direct investments. The United Fruit Company controls the production and export of bananas. Public railway service is provided largely by the International Railways of Central America. Electric power is provided in the most important area of the country by subsidiaries

^{1/} United States Treasury Department, Census of American-Owned Assets in Foreign Countries, 1947.

^{2/} Abelson, Milton, "Private United States Direct Investments Abroad", Survey of Current Business, November 1949, pp. 18-23. United States Department of Commerce. This figure includes reinvested earnings of branches only and not of locally incorporated subsidiaries. The branch type of organization, however, represents more than 80 per cent of United States direct investments in Guatemala.

of the American and Foreign Power Company.

Interest in petroleum exploitation and in the mining of lead and zinc in Guatemala has been shown by United States companies in recent years. The interest in lead and zinc mining has resulted in the conclusion of a concession contract for the working of certain properties. The petroleum companies engaged in exploratory activities have withdrawn, however, as a result of a new Petroleum Law, effective in September 1949, which they consider to render profitable operations impossible.^{1/}

Guatemala has not borrowed abroad from foreign governmental or international lending agencies. Recent developments, however, indicate the possibility of such assistance in the future. An application has been filed with the Export-Import Bank for a loan of \$960,000 by a subsidiary of the American and Foreign Power Company to finance the dollar expenditure involved in its construction programme.^{2/} Representatives of the International Bank for Reconstruction and Development visited Guatemala in November 1949 for preliminary discussions. Pursuant to this visit, Guatemala has requested the services of a mission from the Bank to assist in the formulation of a general development programme.

^{1/} United States Department of Commerce, Foreign Commerce Weekly, 19 September 1949.

^{2/} American and Foreign Power Company, Incorporated, Financial Report, September 30, 1949, New York, N.Y. The first 3,500 KW Unit in a new steam plant near Guatemala City was placed in service on 1 November 1948, and a second unit of 3,500 KW was under construction for completion late in 1949.

A. CONTROLS AFFECTING FOREIGN INVESTMENT

1. Concession contracts

The operations of the large foreign investments in Guatemala have traditionally been regulated by individual concession contracts with the Government. These are usually long-term contracts ranging up to ninety-nine years in duration, which exempt the companies from the provisions of any future legislation that may conflict with their terms. The terms of these contracts are therefore more important than general legislation, from which the investments concerned are for the most part exempt.

The United Fruit Company concession expires in 1981, when most of its property in the country will revert to the Government without cost to the latter. The concession of the International Railways of Central America expires in the year 2009, when all railroad lines will similarly revert to the Government. The franchises of the American and Foreign Power Company subsidiaries expire in the decade 1970-1980.

There has been much agitation in Guatemala for revision of the concession contracts with the three major foreign enterprises on the ground that they were granted by earlier regimes and afford excessive advantages to the companies concerned to the detriment of national welfare. A Congressional Commission to revise the contracts was formed several years ago but has not issued any recommendations.

Participation by foreign enterprises in the extraction of petroleum is subject to concession contracts with the government, the general terms of

1/ Decree No. 649, effective 28 September 1949.

/which are set

which are set forth in a Petroleum Law enacted in 1949.^{1/} As was observed above, no such contracts have been concluded since interested foreign petroleum enterprises object to these terms. The Law requires that foreign enterprises sell to the Government, immediately upon the beginning of operations, all machinery and capital equipment brought into the country; payment for this equipment is to be made by the Government from production or in cash, in a number of installments, to be agreed upon in the contract. Thus, the enterprise would hold no equity in the property worked or in the equipment used. During the period when the Government is paying for the initial capital investment it receives a royalty of twelve and a half per cent of the petroleum produced. Once the installment payments have been completed the royalty is increased to twenty seven and a half per cent of the value of petroleum produced for the remainder of the contract period, the maximum length of which is fifty years. New capital equipment must be sold to the Government on terms similar to those for the initial investment. Refineries must be constructed in the country, to the extent stipulated in each contract. Full or partial exemption from general taxation may be granted. Royalty payments by domestic concessionaires, including companies sixty per cent of whose share capital is owned by Guatemalens and sixty per cent of whose profits are reinvested in the country, range from ten per cent during the first three years to sixteen and one half per cent after the ninth year.

^{1/} Decree No. 649, effective 28 September 1949.

2. Nationality of ownership

The major contracts with foreign investors were effected at a time when foreigners were completely free to invest in any type of enterprise in Guatemala with no requirement of participation by national investors. While this condition generally continues to obtain, it has recently been subject to qualifications, notably in respect of petroleum concessions, as indicated above. New enterprises devoted to the production of alcoholic beverages and tobacco products, according to legislation enacted in 1947, have to be controlled by Guatemala capital.^{1/} The granting of certain tax exemptions, under the same legislation, was made conditional upon the participation by domestic capital in varying degrees, depending upon the nature of the enterprise. Foreign participation in the construction of a proposed new railway has been limited by enabling legislation.^{2/}

A foreign business in Guatemala may operate as a local company or as a branch or agency of a foreign company. In either case, formal permission of the Ministry of Finance must be obtained. However, the legal criteria for the permission do not differ from those which affect domestic nationals applying for approval for the formation of a local company. The great majority of foreign direct investments in Guatemala are organized as branches of foreign companies. As of 31 May 1943, some eighty three per cent of total United States direct investments were organized on this basis.

^{1/} Pursuant to the Law of Industrial Development of December 1947.

^{2/} See page 20.

No important limitations apply to the ownership of land by foreigners. However, for reasons of national security, a corporation, whether domestic or foreign, may not own land within fifteen kilometres of the frontiers or along the shores of certain bodies of water. The same restriction applies to the Department of El Petén, an undeveloped section in the interior of the country.

Like a number of other Latin American Republics, Guatemala requires that foreign companies applying for permission to operate in the country declare that they will be subject exclusively to the local laws and courts in respect of their local activities and that with regard to such matters they will not invoke any special rights as foreigners, but will have only such rights as the laws of the Republic guarantee to Guatemalans. ^{1/}

3. Employment and labour

The Guatemalan Labour Code, which became effective in 1947, provides that employers in any enterprise must employ nationals to the extent of at least ninety per cent of total personnel and pay eighty five per cent of total salaries and wages to nationals. Under specified conditions, these percentages may be reduced by a maximum of ten per cent. However, enterprises that receive special permission to employ nationals to the extent of less than ninety percent must establish training programmes so that nationals will become qualified to replace foreigners. Managers, directors, administrators

^{1/} Thus the United Fruit Company contract provides that diplomatic channels can in no case be used to settle any dispute arising therefrom and the company expressly renounces any such right. Disputes are to be settled by arbitration, with each party naming one arbitrator, the third to be named by the International Court of Justice or by the chief executive of a nation jointly agreed upon.

and superintendents are exempt from the count to the extent of two persons in each enterprise.

Since the concession contracts with the important foreign companies typically provide for virtually complete freedom regarding employment of foreign personnel, these special stipulations of the Labour Code do not apply to these enterprises. In any case, foreign enterprises operating in Guatemala have apparently exceeded the minimum requirements by a substantial margin. The United Fruit Company enterprises employed foreigners to the extent of about four per cent of their staffs in 1948 and paid them ten per cent of their total payrolls.^{1/}

Application of the general provisions of the Labour Code to which the foreign companies are subject has been a source of friction between the companies and the Government. The companies have charged a lack of impartial judgment by the Labour Courts in connexion with disputes adjudicated pursuant to the Code. The United Fruit Company has also contended that certain provisions of the Code are discriminatory against its enterprises. These charges have been denied in a series of pamphlets issued in 1949 by the Ministry of Economy and Labour under the title of "The Guatemalan Nation and the United Fruit Company". ("La Nación Guatemalteca y la United Fruit Company".)^{2/} Friction regarding governmental adjudication of labour conflicts occurred particularly in connexion with a dispute between the United Fruit

1/ Datos, United Fruit Company, Compañía Agrícola de Guatemala, 1948, Guatemala, 1948.

2/ Publicaciones del Gobierno de Guatemala, Ministerio de Economía y Trabajo, 1949. See No. 1, La Frutera ante la Ley and No. 3, La Frutera y la Discriminación República al Senador Lodge y Cia.

Company and its dockworkers at Puerto Barrios late in 1948 and early in 1949, which was settled on 7 March 1949, with the signing of a new collective contract. The provisions of the Labour Code which the United Fruit Company contends are discriminatory concern certain special benefits accruing to workers in agricultural enterprises employing more than 500 workers.^{1/} The Ministry of Economy and Labour has denied that these provisions discriminate against the Company since it has listed in its registry twenty nine firms to which the provisions apply, only two of which are foreign. The remaining twenty seven consist of **Government-owned** farms and domestic privately-owned enterprises.

4. Taxation

Taxation in Guatemala does not discriminate against foreign enterprises, with the minor exception of an annual franchise tax levies on all branches of foreign enterprises. The concession contracts under which the three major foreign companies operate in fact puts them in a more favourable position with regard to taxation than would obtain were they subject to general tax legislation. Since similar ad hoc tax arrangements exist in several other countries of Latin America, it appears useful to consider the Guatemalan situation below in some detail:

^{1/} These provisions deal with the length of the work day, overtime pay rates vacation benefits and the right to strike. Agricultural enterprises, except for those employing more than 500 workers, are exempt from the general provisions on these matters. The most important relates to strikes which are prohibited in public service industries and on farms during the harvest period, except in agricultural enterprises employing more than 500 workers.

a. General tax laws

Direct taxation is imposed on the profits of business enterprises by a law adopted in 1938.^{1/} The scale of rates is progressive, ranging from five per cent on incomes from 500 to 1,000 quetzales to forty three per cent on incomes of 300,000 quetzales and above.^{2/} Dividends received by shareholders in joint-stock companies are not taxed if the enterprise is subject to the business profits tax. Dividends are otherwise taxed along with other income from invested capital, such as interest or rents, by a progressive scale of rates which is somewhat lower in the lower brackets of income than the scale applying to business profits.^{3/} Persons resident abroad are subject to this taxation only on income in excess of 10,000 quetzales annually, thereby being in a more favoured status than resident investors.

The Commission of Tax Studies (Comisión de Estudios Tributarios) of the Ministry of Finance has for some time been studying proposals for unification of the tax system and for the taxation of personal incomes not now assessable, and has drafted a proposed law for presentation to the Congress.^{4/} The proposed

1/ Decree No. 2099, 27 May 1938. The latest revision of the scale of applicable rates was adopted in Decree No. 204, 1 January 1946.

2/ The exchange rate is one quetzal = \$1 (United States currency).

3/ Decree No. 434, 23 October 1947.

4/ Revista de Hacienda, published by that Ministry, January 1949, pages 14-26. Certain revisions of the proposed law were made in September 1949.

law would replace the present taxes on business profits and on other incomes from invested capital with a single scale of rates, and would continue to exempt enterprises now exempt from direct taxation by special laws or contracts. It would also introduce a tax on personal income from all sources.

Personal and business incomes would be taxed on the same basis. The income of Guatemalan individuals, of domiciled foreigners, and of domestic corporations, regardless of the nationality of ownership, would be taxed at progressive rates identical with those now applying under the Law on Profits of Business Enterprises (from five per cent on the lowest bracket of income to forty three per cent on income in excess of 300,000 quetzales).

Foreigners domiciled abroad and foreign corporations operating through branch organizations would be taxed at a single rate of twenty per cent. This, it appears, would encourage the formation of locally organized corporations, at least in the case of small and medium-sized enterprises. The average impact of the progressive scale of rates applicable to locally organized corporations would exceed twenty per cent only in the upper brackets of income. Large-scale foreign enterprises that would consequently have to pay higher taxes if organized as branches rather than as local corporations might, however, be subject to special tax treatment established through individual concession contracts.

Tax concessions are provided otherwise than through individual concession contracts by a Law of Industrial Development of December 1947.^{1/} Certain

^{1/} United States Department of Commerce, Foreign Commerce Weekly, 2 February 1948, page 17.

provisions of the Law are of particular interest as an indication of the official attitude towards foreign capital. The tax concessions provided by the Law for new and existing industries include the relinquishment of specified portions of the business profits tax for a number of years and total exemptions for varying periods from import duties on equipment and raw materials not obtainable locally. The degree of concession varies with the extent of utilization of domestic raw materials and the employment opportunities offered. New enterprises as well as existing enterprises planning to expand their activities are required to admit participation by national capital up to certain limits in order to qualify for the exemptions. The majority of the shares of companies producing primarily for the domestic market and "which do not require a high degree of technical skill" and one third of the shares of enterprises requiring a "high degree of technical skill" must be owned by domestic nationals. For this purpose domestic nationals are defined to include permanent alien residents and corporations organized under the laws of Guatemala which invest at least sixty per cent of their annual profits in the country.

b. Taxation of concessions

Two of the three major foreign enterprises are exempt from taxes on business profits, except for certain incidental activities which they carry on through sale of consumption goods in company stores. The third (the electricity enterprise) pays a direct profits tax, pursuant to separate legislation taxing net profits from the sale of electric energy at a single rate of five per cent. In addition, the three enterprises receive important exemptions from duties on imported equipment used in connection with their

/principal activities

principal activities.

The most important taxes to which the United Fruit Company enterprises are subject are import duties on certain equipment and consumption goods and an export tax on bananas. During 1948 they paid some 848,000 quetzales in import duties and 160,000 quetzales as export tax. Exemptions from import duties amounted to 356,000 quetzales. The amount of the exemption from business profits tax cannot be calculated because of lack of data concerning the theoretically taxable income of the enterprises, which is not reported to any government agency in Guatemala.

The railways are virtually free of taxation, except for certain import duties and a tax on passengers and freight. Exemptions from a property tax amounted to 163,000 quetzales in 1948 and from import duties to 812,000 quetzales. As in the case of the fruit company, information on the amount exempted from the business profits tax is not available. The tax on passengers and freight amounted to 45,000 quetzales in 1948. Payment of this tax has been the subject to dispute between the enterprise and the Government. The Government contends that some 4,000,000 quetzales are due for failure to pay the tax at certain stipulated rates for the past ten years. The enterprise has been paying the tax at lower rates, apparently as a result of agreement with earlier administrations. The Ministry of Finance, after negotiations with the railway, proposed to the Congress in 1949 that it be authorized to renegotiate the railway concession contract to provide for the payment of certain taxes in the future, in return for which it would cancel its claim for back payment of the transportation tax.

/The most

The most important taxes paid by the electricity enterprise are the five per cent tax on net profits previously mentioned, a two per cent tax on the gross sale of energy, and import duty on certain equipment. The profits tax paid in 1948 amounted to some 34,000 quetzales, or much less than if the general tax on business profits had been applicable.^{1/} The two per cent sales tax amounted to 27,000 quetzales and import duties to 19,000 quetzales; the exemptions from import duty amounting to some 50,000 quetzales. The ratio of tax exemptions to tax payments was probably almost three to one.

The effect of the tax exemptions enjoyed by these three major enterprises on their profits after taxes is limited by their tax liabilities to the United States Government. Presumably all three qualify for the benefits of the United States Western Hemisphere Trade Act, under which the rate of taxation is twenty four per cent of income rather than the thirty eight per cent otherwise applicable to corporate incomes in excess of \$50,000. It should be observed that these enterprises pay taxes to the United States Government equivalent only to the difference between taxes paid to the Guatemalan Government, which are treated as offsets to the United States tax liability, and the United States tax of twenty four per cent. Increases in Guatemalan taxation up to twenty four per cent, assuming similar definitions of income in the two countries, therefore, would not affect the level of profits after taxes, but merely divert to Guatemala tax payments now made to the United States. On the other hand, taxation under the rates generally applicable to business profits in Guatemala (ranging up to forty three per cent

^{1/} Profits on which this tax was paid amounted to 673,000 quetzales. It will be recalled that the scale of rates on general business profits ascends to forty three per cent on income in excess of 300,000 quetzales
/of the income

on the (part of the income exceeding 300,000 quetzales) might exceed the present tax liabilities of the companies under United States legislation.

5. Transfer of earnings and capital

Transactions in foreign exchange in Guatemala are not subject to limitations. Remittances of income from capital and transfers of such capital may be effected freely.

The Guatemalan Monetary Law of December 1945 established an emergency system of exchange control to come into effect, after approval of the International Monetary Fund, when net official reserves equal less than forty per cent of the annual average of total sales of exchange during the three preceding years or are falling at a rate exceeding twenty five per cent per year. Under the system, exchange would be provided at the official rate for essential imports and reasonable remittances on account of registered foreign investments. All accruing foreign exchange not sold for these purposes would be sold at auction for imports not on the essential list. The controls would be terminated if the auction premium was eliminated during twelve consecutive months as a result of the reduction of the exchange stridency.

Guatemala's gold and foreign exchange assets increased from \$11.4 million at the end of 1939 to a peak of \$53.7 million at the end of 1947 and then declined to \$38 million by October 1949.^{1/} Gold and foreign exchange holdings declined by \$8.7 million or 18.6 per cent during the year ending on 31 October 1949.

^{1/} International Monetary Fund, International Financial Statistics, December 1949, pages 70-71.

During the war years Guatemala developed relatively large export surpluses and enjoyed extraordinary receipts from special United States expenditure related to the war. The surpluses have been considerably reduced in the post-war years, and were in fact replaced by a small deficit of some \$5 million in 1948, with a somewhat smaller deficit likely for 1949,^{1/} largely as a result of greater increases in imports than in exports.

The remittance of income on foreign investments has constituted a minor element in the post-war balance of payments of Guatemala.^{2/} Such payments averaged \$4.6 million annually during 1946-1948, or about 7.6 per cent of the value of exports. These payments were primarily on direct investments and include profits retained out of export proceeds of such enterprises as the United Fruit Company. The foreign public debt was repaid almost entirely in 1944.^{3/}

The percentage yield of income received in the United States on direct investments in Guatemala has been below the average yield of United States investments in Latin America generally. During 1943 the income received amounted to \$4.4 million, about the same as the average for 1946-1948, representing a yield of 5.1 per cent of the value of the investments. The average yield in Latin America was 6.6 per cent. The percentage yield of the

^{1/} Imports during the first nine months of 1949 were at about the same level as in the corresponding period of 1948, but exports were five to six per cent higher. The increase in the price of coffee during 1949 did not occur until after the bulk of the crop had been shipped.

^{2/} See International Monetary Fund, Balance of Payments Yearbook - 1938, 1946, 1947 and International Financial Statistics, December 1949, page 153.

^{3/} The external public debt amounted to about 650,000 quetzales as of 31 December 1948. The debt was reduced from 10.4 million quetzales at the end of 1943 to 3.1 million as of 30 June 1945.

income remitted in 1946-1948 was probably lower since there was a net inflow during those years of \$17 million of capital for direct investment, adding to the value of investments. During this period average yields throughout Latin America increased to 10.3 per cent. The relatively low standing of Guatemala in this respect may be the result of the predominance of public utility and transportation holdings among the total investments (about seventy two per cent in May 1943). Foreign investments in these industries in Latin America have generally been less profitable than the average, particularly in periods of inflation with rising costs.

6. Commercial policy

Tariff protection of industries has been provided only to a limited degree in Guatemala. Import licensing for the purpose of protection has been used even less extensively. The relatively limited application of these measures of protection, however, probably reflects the small scope for industries manufacturing for the local market. With recent increased emphasis on economic diversification, there is evidence that the traditionally liberal commercial policy is being reviewed.

In June 1949, an official Commercial Policy Coordinating Committee was formed to review traditional policy in this field.^{1/} Local manufacturers, supported by organized labour have been pressing for revision of the Reciprocal Trade Agreement with the United States, in effect since 1936, in order "to permit the development of national industries", and for the imposition of import licensing on all articles, the local production of which

^{1/} United States Department of Commerce, Foreign Commerce Weekly,
25 July 1949.

is adequate, in quantity and quality, to meet domestic requirements.

B. GOVERNMENT PARTICIPATION IN INDUSTRY

Direct participation in industry by the Government has been relatively limited in Guatemala. The most important instances of such participation are coffee farms formerly owned by German citizens, nationalized during the war and now operated by the Government, and the generation and transmission of electricity through certain state and municipal enterprises. Monopoly control over the production and marketing of a few commodities, including tobacco, alcoholic beverages, matches and ammunition is exercised for fiscal reasons; however, this control has been implemented, for the most part, not by the operation of state-owned establishments but by the licensing and regulation of private enterprises.

Nationalized coffee farms, which accounted for about twenty two per cent of the coffee production during the crop year 1948-1949, are administered by a Department of National Farms. The Government owns the second largest electric power company in Guatemala, which provides close to ten per cent of the country's consumption. This company does not compete with the subsidiaries of the American and Foreign Power Company, which are the principal suppliers of electric power in the country. It operates in outlying areas where power is scarce, and on a cooperative basis with municipalities, which also own and operate electric power plants.

Present trends indicate that the Guatemalan Government will expand its direct participation in the economy, particularly to stimulate a more rapid rate of economic development. In 1948 the Government established for this purpose the Institute for the Development of Production (Instituto de Fomento /de la Producción)

de la Producción).^{1/}

The Institute has functions similar to those of the governmental development corporations in other Latin American countries. Its objectives are to improve existing agricultural and pastoral production practices, to diversify agricultural production, and to encourage industrialization. Its initial capital was 6,500,000 quetzales. From two to six per cent of the Government's budget is to be spent each year to increase the Institute's capital. The Institute may establish industries directly or participate on an equity basis in private ventures; such participation, however, may not exceed twenty five per cent of its capital and reserves. The Institute's interest is to be sold when the enterprises have been established on a firm basis.

The Institute is already operating some enterprises and has planned a series of others. It is financing the construction of a factory to supply the country's entire requirements of coffee bags. It conducts an experimental farm with motorized equipment, and administers a large coffee, sugar and corn plantation. Its most important plans relate to the mechanization of agriculture, through the establishment of farm machinery stations and the granting of loans for the acquisition of equipment; to the improvement of handicrafts and of principal the most important existing industries including those producing textiles, leather, flour and dairy products; to the establishment of new industries using local raw materials, such as the production of vegetable oils, lumber and forest products, glass containers, and fertilizers; to the development of hydro-electric power; and to the

^{1/} Decree No. 533, 17 August 1948.

construction of low-cost housing.

Participation by the Government in extension of the country's railway system may be expected if plans materialize, as embodied in a decree adopted by the Congress late in 1949, for construction of a railway of about 300 miles into the undeveloped area of the Department of El Petén. The Decree^{1/} authorizes the Executive to stimulate the construction by the formation of a local company, in which the State would participate by receiving shares of stock in exchange for its contribution of the twenty nine miles of line known as the Verapaz Railway^{2/} and of certain lands. Other participants may be private individuals, State agencies and municipalities. Private foreign capital may participate, but only up to forty per cent of the stock issue. Except for the Verapaz Railway, foreign interests now operate all railroads in the country. Public service is offered by the International Railways of Central America, and industrial lines are operated by the United Fruit Company.

C. ATTITUDE TOWARD FOREIGN INVESTMENT

The friction that has developed during the past five years between the major foreign-owned enterprises in Guatemala and the Government indicates a change in the attitude towards foreign direct investments which thus far have been subject to little legal restriction. The future position of some of the important investments in the country is, consequently, somewhat uncertain.^{3/} The official policy toward private foreign investment has not been clearly

^{1/} No. 694, 24 November 1949

^{2/} Nationalized in 1941 because of German ownership.

^{3/} It has been reported that the United Fruit Company postponed plans to invest some \$7-\$8 million in 1949 as a result of disagreement with the Government.

redefined as regards either the treatment of existing investments or the fields considered appropriate for the future employment of private foreign capital. As was observed above, the Congressional Commission formed to revise concession contracts with the major foreign enterprises has not yet issued a report. While a concession contract with a foreign enterprise for the mining of lead and zinc has been concluded, it has not been possible for the Government and foreign enterprises to agree on terms for exploitation of petroleum under legislation recently adopted.

The Government of Guatemala has indicated that it is not prepared to assume international obligations regarding the treatment of foreign capital that imply any limitation of the principle that foreign investors must be subject to its jurisdiction. This policy was expressed in the form of a reservation to certain provisions concerning private foreign investments contained in the Economic Agreement of Bogotá (Colombia), signed at the Ninth International Conference of American States in May 1948. With respect to a provision concerning compensation in the event of expropriation, the Government of Guatemala expressed the reservation that the payment of compensation should be subject to the Constitution of the country. A clause excluding "unreasonable or discriminatory measures" against foreign enterprises was made subject to an "express reservation" to the extent that it would restrict the principle that aliens are subject to Guatemala's jurisdiction.

The principal labour unions of Guatemala have subscribed to a programme to reduce the influence of foreign capital in the economy. ^{1/} This programme

^{1/} United States Department of Commerce, Foreign Commerce Weekly, 21 February 1949.

calls upon members of the unions to oppose the economic and political intervention of foreign-owned firms in Guatemalan affairs, to oppose alleged economic boycotts initiated by such firms against the country,^{1/} to protect national sovereignty, and to urge the Government and private Guatemalan interests to establish industries and services of the same kind as these owned by foreign enterprises.

Some of the major foreign investors in Guatemala have charged that the Government is pursuing a policy of discrimination against private foreign capital. The Government, through its Ministry of Economy and Labour, has denied that its attitude toward foreign capital is discriminatory by pointing to the degree to which major sectors of its economy are controlled by foreign capital, to the liberal tax treatment under the contracts with major foreign enterprises, to recent foreign investments, especially in mining, and to the lack of any restrictions on the export of capital.^{2/}

^{1/} Presumably a reference to the cancellation of shipping by the United Fruit Company during the labour dispute of early 1949 at Puerto Barrios.

^{2/} La Frutera y la Discriminación. See footnote on page 8.