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

Prepared by the Secretariat

FOREIGN INVESTMENTS IN MEXICO

Table of Contents

	<u>Page</u>
I. The nature of foreign investments in Mexico.....	2
A. External public debt.....	2
B. Foreign direct investments.....	16
II. The significance of foreign investments in the economy.....	22
A. Distribution by industries.....	23
B. Foreign investment and economic development..	39
C. Foreign investment and the balance of payments.....	43
III. Government policy and foreign investment.....	49
A. General controls.....	49
B. Government participation in the economy	56
C. Control of particular industries.....	59
D. Implications of policies.....	67

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I. THE NATURE OF FOREIGN INVESTMENTS IN MEXICO

Foreign investments played an important role in the early development of the Mexican economy. The major inflow of foreign capital occurred during the Porfirio Díaz regime, from 1876 to 1910, when large amounts were borrowed abroad by the Federal and Local Governments for public works, and direct foreign investments were made in railways, public utilities, agriculture, and in the mining and petroleum industries. The heavy inflow of foreign capital was arrested by the outbreak of the Revolution of 1910. By this time foreigners controlled the major part of capital investments. The external public debt went into default in 1914 and remained so until settlement in 1942 and 1946. Private direct investments were discouraged until 1940 by the government's policy of expropriation and nationalization of agrarian, petroleum and railway properties. By the beginning of the Second World War control of capital investments by foreign interests had been greatly reduced. In the past decade there has been a renewed flow of foreign investments into Mexico through intergovernmental credits and private direct investments. Direct investments have been concentrated largely in manufacturing, in some cases in association with local capital.

A. External public debt

1. Amount outstanding and service requirements

The external long-term public debt of the Mexican Federal Government was about \$306 million at the end of 1948. This figure

/includes

includes obligations both directly contracted and assumed by the Federal Government, and external loans to Federal Government corporations guaranteed by the government itself.

The principal components of the total are shown in Table I. Some \$98 million represent obligations assumed in recent settlements with foreign bondholders on defaulted public debt; \$138 million, obligations arising from governmental expropriation of direct investments; and \$70 million, recent intergovernmental loans for development.

Additional current obligations of shorter maturity consists of a balance of \$37.5 million outstanding on amounts drawn from the International Monetary Fund and from the United States Treasury Stabilization Fund.

Early in 1949 the International Bank for Reconstruction and Development opened a line of credit of \$34.1 million for development of electric power facilities in Mexico, which has thus far been drawn upon only partially.

Table 1

External long-term obligations of the
Mexican Federal Government,
31 December 1948

(In millions of United States dollars)

Direct obligations:

External funded debt	47.2a/
Railway debt (Assumed by Federal Government)	50.5b/
United States property claims settlement	16.5
Anglo-Dutch petroleum property claims settlement	<u>121.7</u>
Total direct debt	235.9

Guarantees

Balances due Export-Import Bank	<u>70.1</u>
Total external obligations	306.0

a/ About 20 per cent of this is enemy-owned and will not be recognized.

b/ About 10 per cent of this is enemy-owned and will not be recognized.

Annual service payments on the external long-term public debt were \$29.1 million in 1948. At the 1948 level of debt these payments would be \$35 million in 1949 and \$38.4 million in 1950; they will remain at slightly more than \$30 million thereafter

/until

until 1955 and then decline rapidly.^{1/}

Total payments on account of public debt domestic and foreign, amounted to 305.7 million pesos in 1948, constituting 11.4 per cent of total budgetary expenditures in that year, according to preliminary figures of the Bank of Mexico.^{2/} About 7 per cent of total federal expenditures, consisted of payments on the external public debt. Budgeted payments for service of total public debt increased to 607.8 million pesos for 1950, representing 22.1 per cent of budgetary expenditures.^{3/} The increase, both absolute and relative, is largely accounted for by the larger peso equivalent of the fixed amounts in foreign exchange required to meet payments on the external debt, resulting from the depreciation of the peso during 1948 and 1949.

2. Historical development

Foreign borrowing by the government began in 1824, shortly

1/ These estimates overstate the service on the external funded debt and the railway debt in that they do not allow for payments on bonds held by nationals of enemy countries during the Second World War. Furthermore, the amortization payments were calculated on the basis of purchases of bonds for retirement at the par specified in the adjustment agreements, described on pages 7 and 8 below. Retirement at market prices lower than par would provide some savings. Actual costs are also overstated since 30 per cent of the debt is held internally, partly by the Government. Payments on account of Export-Import Bank loans were estimated on the basis of disbursement by 30 June 1949 of the entire amount of \$53.7 million of loans authorized as of 30 June 1948. No provision was made for repayment of Lend-Lease debts to the United States totalling \$39.3 million.

2/ Banco de Mexico, S.A., Vigésimaséptima Asamblea General Ordinaria de Accionistas, page 103, 1949.

3/ Based on the fiscal report of the Minister of Finance transmitted to Congress in December 1949, as reported in Hispanoamericano, 23 December 1949, P. IV.

/after

after the achievement of independence, and initial borrowing was followed by a series of defaults and adjustments which continued until 1886, the beginning of the second decade of the Porfirio Diaz regime (1876-1910). Consolidation of that regime and steps taken to restore the country's credit standing paved the way for the period of heaviest borrowing from private foreign sources, from 1886 to 1913. The entire debt went into default in 1914, several years after the beginning of the revolutionary movement that overthrew the Diaz regime, and remained in default until the 1940's. The period since 1941 has been marked by the resumption of service on the external funded debt and the railway debt, although on a considerably reduced basis, and by intergovernmental borrowing for both currency stabilization and domestic development from the United States Treasury Stabilization Fund, the International Monetary Fund, the Export-Import Bank and the International Bank for Reconstruction and Development. During this period almost all claims against the Mexican Government arising from expropriation of petroleum and agrarian properties and damage attributed to the revolution have been adjusted.

Total foreign bond issues between 1824 and 1947 are estimated at the equivalent of about 1,000 million United States dollars. This estimate, however, considerably overstates the net capital inflow into Mexico on account of foreign loans since many issues represented conversion and refunding operations. Most of the

/loans

loans were floated between 1824 and 1913, when the issues totalled \$375.2 million, £91 million and 280.3 million francs. Since 1913, the greatly reduced amounts issued in connexion with various settlement operations have been almost exclusively dollar obligations.

From the time of the default in 1914 until 1940, political and economic difficulties in Mexico hampered the resumption of payment on foreign obligations. The initial cause of default was the political and economic unrest which began in 1911 with the overthrow of the Díaz regime. Political instability continued until the early 1930's. During this period there was little disposition to assume responsibility for foreign obligations, and the government was beset by great fiscal difficulties. Furthermore, the transfer problem would have been serious even if there had been willingness and ability to raise local currency to service the debt. During the 1930's fiscal and transfer difficulties in Mexico resulting from the world depression and the government's public works programme continued to hamper resumption of debt service.

External funded debt. The history of the external funded debt began with the issue and sale in England of 5 per cent bonds with a nominal value of £3,200,000 in 1824, and with a 6 per cent issue of the same amount in 1825. These initial borrowings were soon followed by a series of defaults and adjustments which continued until after 1886, reflecting the almost constant internal political turmoil during that period as well as international disturbances,

including war with the United States during 1846-48.

Steps were taken upon establishment of the Diaz regime to restore Mexico's internal and external credit. Newly created 3 per cent Internal Consolidated Debt bonds for the settlement of outstanding claims against the government were issued pursuant to a decree of 22 June 1885, the bulk being sold to foreigners after an agreement on adjustment in 1886.^{1/} The floating by Mexican states of bonds in foreign markets was prohibited by a constitutional amendment of 1901. Subsequently, three Mexican states issued peso bonds abroad with the guarantee of the National Government. These bonds, like those of the 3 per cent Consolidated Internal issue authorized in 1885 and the City of Mexico 5 per cent Sterling Loan of 1889 (assumed by the Federal Government on 26 March 1903), are now included in the foreign debt of the Federal Government.

These adjustments, and a measure of political stability never before known in Mexico, cleared the way for the borrowing by the country during the twenty-five year period ending in 1913 of large amounts in the principal financial centres of the world for the construction of railways and ports, and for other purposes. They also facilitated private foreign financing of railways, utilities, and mining and petroleum enterprises, which took place on a large

1/ The issue of Internal Debt Bonds ceased on 30 June 1896. Complete data on the amount issued are not available, but on 30 June 1907, 45.9 million pesos were outstanding. Since the foreign debt settlement effective 2 March 1943 includes 41.8 million pesos in 3 per cent Internal Debt Bonds of 1885 it is presumed that they were sold largely to foreigners.

scale.

Service payments on the external debt were maintained from the adjustment of 1886 until July 1914 when they were suspended as a consequence of the financial disruption arising from the revolutionary movement in 1910. Although order had not been fully reestablished, the administration of President Obregon, which had assumed office in 1920, undertook to reestablish the external credit of the country. This involved the signing in 1922 of an agreement between the Mexican Government and the International Committee of Bankers on Mexico as representatives of foreign bondholders. This agreement was never fully implemented, nor were other agreements entered into in 1925 and 1930. The funded external debt of the Mexican Government is currently being serviced in accordance with another agreement, which became effective in March 1943.

This agreement provided for the resumption of service payments and the liquidation of interest arrears on a drastically reduced basis. The total outstanding principal, equivalent to \$230.6 million (\$53.9 million; £30 million and 139.6 million pesos), was scaled down to \$47,552,984. The arrears of interest, which amounted to the equivalent of \$278.9 million, were settled for a payment of \$2.1 million. The total obligation on account of principal and interest was thus reduced from the equivalent of about \$509.5 million to \$49.6 million.

Railway debt. This debt is represented by obligations of the

/government-owned

government-owned Mexican National Railways and its subsidiaries. The government's liability for these debts is derived from guarantees undertaken upon formation of the Mexican National Railways in 1909 and earlier in connexion with concession contracts with private interests for construction of railway lines.

The service of the railway loans was defaulted in 1914 when the Federal Government suspended payments on its own external obligations. An adjustment was offered to bondholders in April 1948 pursuant to an agreement between the Finance Minister of Mexico and the International Committee of Bankers on Mexico announced in March 1946. The agreement became operative as of 2 March 1950 upon acceptance by a majority of the bondholders.

The outstanding principal of debts involved in the agreement totalled about \$233.1 million, on which \$324.5 million in unpaid interest had accumulated. By provisions similar to those in the federal funded debt settlement plan, the outstanding principal was reduced to \$48.1 million and arrears of interest to \$2.5 million. Total railway obligations were thus reduced from the equivalent of \$557.6 million to \$50.6 million.

Under the settlement, bondholders were offered two options, each of which involved payment by the Mexican Government of the same amount of money over a period of twenty-nine years. Plan A provided for retirement of the bonds at approximately a fifth of the original principal amount, and payment of interest on such principal from 1 January 1946 at varying rates on the several bond issues, averaging 4.35 per cent per annum. Under Plan B holders would waive interest

/from January

from January 1946, in lieu of which they would receive higher redemption prices.

United States property claims settlement. The amount of \$16.5 million due under the so-called United States claims settlement is the outstanding balance under the Mexican-American Claims Convention of 1941, covering expropriation by Mexico of American-owned property except oil and railway properties. The agreement fixed Mexico's total liability at \$40 million, of which \$3 million had been paid prior to the convention, \$3 million was paid on ratification, and the remainder was to be paid in thirteen annual installments. An agreement providing for payments by Mexico of about \$38 million for expropriated United States owned oil properties was reached in 1942, but these payments have now been completed.

Anglo-Dutch petroleum settlement. The "Anglo-Dutch obligation" arises from an agreement signed in 1947 with respect to certain oil properties expropriated in 1938. The agreement fixed the total amount due at \$130.3 million, including interest during the period from expropriation until repayment has been completed. The debt is to be paid in fifteen installments of \$8.7 million each, the first of which was paid in September 1948.

Export-Import Bank loans. The position of Export-Import Bank loans granted since 1941 was as follows at the end of 1948:

(In millions of dollars)

Total authorized	153.2
Cancelled and expired	6.1
Net available for use	<u>147.1</u>
Not disbursed	48.1
Disbursed	<u>99.0</u>
Repaid	<u>28.9</u>
Outstanding	70.1

By the end of 1949 the total amount authorized was only slightly higher (\$153.3 million as against \$153.2 million at the end of 1948), but undisbursed balances were reduced to \$28.4 million. Repayment of these commitments has been made on schedule.

The largest Export-Import Bank loans have been made for maintenance and further development of highways, railways and electric generating facilities. A total of \$36 million has been disbursed for highway construction equipment and services. Disbursements of \$26 million have been made for railway equipment, and an additional \$17.9 million was authorized in August 1949. More than \$20 million have been disbursed for electrification. Other important activities and industries that have been financed are:

/steel mills,

steel mills, about \$9 million; gasoline refineries, more than \$9 million; importation of agricultural equipment, \$5 million; sugar mills, \$5 million; an ammonium sulphate plant, \$6 million; and a beef canning plant, \$1 million.

Interest rates on these loans have ranged from 3 1/2 to 4 1/2 per cent. The maturity of the larger loans has generally been eight to nine and one-half years, although in some instance it has been longer.

Transaction with International Monetary Fund. An obligation of \$22.5 million to the International Monetary Fund as of 31 December 1949 is the result of a purchase of United States dollars during 1947 to assist in meeting balance of payments difficulties. The amount purchased is equal to Mexico's gold and dollar subscription to the Fund.

United States Treasury Stabilization Fund debt. A debt of \$15 million owed to the United States Treasury Stabilization Fund represents the unpaid balances of an obligation incurred from 1947 to 1949 when the Mexican Government used \$37 million of a credit that had been established in its favour by that Fund.

On 31 December 1949 Mexico repaid \$22 million of the total drawn. The credit was originally established in 1941 and was subsequently renewed.

Loans of International Bank for Reconstruction and Development.

In January 1949 two loans were made by the International Bank for Reconstruction and Development to Nacional Financiera and the Federal Electricity Commission, an agency of the Mexican Government, totaling \$34.1 million. The proceeds of one loan, \$24.1 million are to be used to finance the purchase by the Commission of material and equipment necessary for the completion of several projects in its 1947-1952 construction programme. The loan is for twenty-five years and carries interest at 3 1/2 per cent plus a commission charge of 1 per cent per annum.^{1/}

^{1/} The minimum commission of one per cent is mandatory during the first ten years of the Bank's operations, but may be reduced subsequently, if the reserves accumulated are considered sufficient to justify this.

Amortization begins in the fifth year. Proceeds of the other loan, amounting to \$10 million, are to be loaned in turn by the Commission to the Mexican Light and Power Company, a private company, to finance part of the cost of an expansion programme. This loan, too, carries interest at 3 1/2 per cent and the annual commission charge of 1 per cent. It was extended to cover expenditure required to the end of 1949. Subject to a financial reorganization of the company and "if no obstacles arise in connection with the general position of the company or the Mexican economy, the Bank will be prepared to negotiate a long-term loan to the company of about \$26 million, to be used to refund the short-term credit and to finance further costs of the expansion programme."^{1/}

These loans were made as the outcome of an application by Mexico in 1947 for a larger loan for hydro-electric, irrigation, oil pipeline, railway, port and highway projects. It was finally agreed by the Bank and the Mexican Government that the power projects should be given first priority because they are regarded as fundamental to the government's development programme and had reached a more advanced stage of planning than the other projects. It was, furthermore, the Bank's belief that simultaneous financing of all the projects would have imposed an undue burden of foreign debt on Mexico.^{2/} The

1/ International Bank for Reconstruction and Development, Fourth Annual Report, 1948-1949, page 17.

2/ See International Bank for Reconstruction and Development, op. cit., page 17.

/original application

original application had requested financing by the Bank to meet some local currency expenditure as well as the foreign exchange requirements of the projects submitted.

B. Foreign direct investments

1. Total amount

According to a partial estimate by the Bank of Mexico, foreign direct investments amounted to at least \$600 million (United States currency) in 1945.^{1/} The Bank has expressed the belief that this figure may represent about 70 per cent of the total, which would indicate a total of some \$850 million in that year.

The Bank has further estimated that an additional \$85 million (including reinvested earnings) of foreign capital were invested in Mexican enterprises during 1946 and 1947, and that at least \$18 million (excluding reinvested earnings) were invested in 1948. This would indicate a minimum of about \$700 million at the end of 1948, or about \$950 million if the estimate is assumed to represent 70 per cent of the total.

The industrial distribution of direct investments in recent years, based on the partial estimate, is shown in Table 2.

^{1/} This estimate refers to enterprises controlled by corporations and individuals domiciled abroad. The extent of ownership assumed to establish control is not stated.

Table 2

Foreign direct investments in Mexico
by industrial groups, 1938-1945

	(In millions of United States dollars) ^{a/}		
	1938	1941	1945
Agriculture and livestock	15	16	23
Trade	9	14	24
Manufacturing	18	25	51
Mining	221	215	211
Public service and transportation	290	272	274
Other	6	7	14
Total	559	549	597

Sources: Banco de México, S.A., Vigesimasexta Asamblea General Ordinaria de Accionistas, page 54. 1948

a/ Converted from pesos at average rates for each year as reported by the International Monetary Fund in International Financial Statistics.

Public utilities, transportation and mining account for more than 80 per cent of the total in each year. It will be noted that trade and manufacturing have shown important relative increase over the period.

According to the Bank of Mexico, more than 60 per cent of the total represents United States holdings, and significant portions of the remainder are British and Canadian. This estimate of total values by nationalities differs considerably from that of the United States Government of investments by United States nationals in Mexico. However, the pattern of distribution among industrial groups is similar in the two estimates.

2. Investments by countries of origin

United States direct investments constitute the majority of foreign direct investments in Mexico. Their share of the total has /increased in

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increased in recent years with the relative growth of foreign participation in manufacturing and distribution.

British investments, once dominant, still constitute about 20 per cent of the total. During the first half-century of Mexican independence they exceeded those of any other origin and increased greatly during the Díaz regime and the First World War. British capital was mainly invested in petroleum and railways; secondary fields were trade and finance, agriculture, public utilities, mining and manufacturing. The nationalization of the railways in 1937 and of the oil companies in 1938, and the sale by British nationals of oversea assets during and after the Second World War, including the Interoceanic Railway in 1944 and the Mexicano Railway in 1946, have sharply reduced the value of British-controlled enterprises.

Other significant foreign investments in Mexico, all relatively small compared to United States and British holdings, are held by Canada, France, Spain, Sweden and Belgium. Canadian and Belgian investments are represented chiefly in the generation and distribution of electric power; Swedish, in telephone services; and French and Spanish, in distribution and manufacturing. In the case of many of these European investments there has been a growing tendency for domestication of the capital; the movement of capital was coupled with immigration, and ties with the mother country have been gradually broken by descendants of the original investors. To the extent that this has occurred, the investments can no longer be considered

/foreign from the

foreign from the point of view of their present impact on the economy.

United States direct investments: The value of United States direct investments in Mexico as of 31 May 1943 was estimated by the United States Treasury at \$287 million. This is estimated to have increased to more than \$325 million by the end of 1948. The chief increase has occurred in manufacturing and distribution.

The outflow of private capital from the United States for direct investment in Mexico during the years 1945, 1946 and 1947 amounted to \$25 million. This is a net figure of new investments less liquidations, and includes reinvested earnings of branches only. Undistributed earnings of subsidiaries are excluded from capital movements in calculation of the United States balance of payments. The dominant position of manufacturing and distribution is indicated in Table 3.

Table 3

Net outflow of United States private direct investment to Mexico by industries, 1945-1947 inclusive
(In millions of dollars; inflow (-))

Manufacturing	17
Distribution	12
Agriculture	a/
Mining and smelting	-4
Petroleum	-3
Public utilities	6
Miscellaneous	-3
Total	25

Source: Abelson, Milton, "Private United States Direct Investments Abroad", Survey of Current Business, November 1949, page 22. United States Department of Commerce.

a/ Included in miscellaneous

/An additional

An additional capital outflow of \$16 million was recorded in 1948. The distribution among industries is not available, but it appears safe to assume that there was no great departure from the pattern of the preceding three years. The bulk of the total net capital outflow of \$41 million in the post-war period occurred in 1947 and 1948; the net outflow in 1945 was \$6 million, in 1947 \$21 million and in 1948 \$16 million. A net inflow into the United States of \$2 million was recorded for 1946.

The book values of United States direct investments in Mexico declined sharply from 1929 to 1943, and their industrial distribution changed considerably during that period, as shown in Table 4.

Table 4

United States direct investments in Mexico by industrial groups

(In millions of dollars)

	<u>1929</u>	<u>1936</u>	<u>1940</u>	<u>1943</u>
Mining	230	213	168	108
Utilities and transportation	164	148	116	106
Manufacturing	6	8	12	22
Trade and finance	9	11	7	23
Agriculture	59	17	10	14
Petroleum	206	69	42	5
Others	8	13	3	9
Total	683a/	479	358a/	287

Sources: for 1929, 1936, 1940 - United States Department of Commerce, American Direct Investments in Foreign Countries, Trade Information Bulletin No. 731 and Economic Series Nos. 1 and 20, respectively; for 1943 - United States Treasury Department, Census of American-owned Assets in Foreign Countries.

a/ Disparity between total and sum of components is due to rounding.

/The major factors

The major factors causing the steady decline in value from \$683 million in 1929 to \$287 million in 1943 have been the expropriation of railway, petroleum and agricultural properties and in some cases write-downs of book values occasioned by depreciation of the peso during these years. Significant increases, both absolutely and relatively, have occurred in manufacturing and distribution.

Of total United States investments of \$287 million in 1943, corporations owned \$236 million, individuals \$19 million, and estates or trusts \$32 million. As regards the type of organization in Mexico branches or enterprises operating in the name of their parents, consisting largely of a few companies, represented 41 per cent of the total, while local corporations registered under Mexican law constituted some 58 per cent, the small balance consisting of non-profit and other types of organizations.

Since the beginning of the twentieth century, Mexico has diminished sharply in relative importance as a field for foreign direct investment by United States nationals. Various estimates covering the period from the last few years of the nineteenth century to the outbreak of the Mexican Revolution in 1910 indicate that United States investments in Mexico were from 30 to 40 per cent of total United States foreign investments.^{1/} The absolute decline in United States investments in Mexico since that period and the interest of investors in other countries of Latin America and the world steadily reduced the percentages to 9.1 per cent in 1929,

^{1/} Espinosa de los Reyes, Jorge, Las Relaciones Económicas entre México y Estados Unidos de 1870 a 1910. Ponencia Presentada al Primer Congreso de Historiadores de México y los Estados Unidos. Nacional Financiera, S.A., Departamento de Estudios Financieros.

/7.2 per cent in 1936,

7.2 per cent in 1936, 5.1 per cent in 1940, and 3.9 per cent in 1943.^{1/}

In 1911, Mexico was second only to Canada as an area for United States investments; by 1943 it had dropped to eighth place, coming after Canada, Cuba, the United Kingdom, Germany, Argentina, Venezuela and Chile.

II. THE SIGNIFICANCE OF FOREIGN INVESTMENTS IN THE ECONOMY

From the beginning of Mexico's independence in the 1820's direct investments by foreigners have played an important role in the economy. Prior to the 1870's such investments were made mainly by venturesome European and American immigrants in agricultural, livestock, mining, and commercial undertaking, but in the early part of the Díaz regime (1876-1910) investments by foreign-owned corporations and other enterprises began on a large scale. By the outbreak of the Revolution (1911) foreign-owned enterprises controlled probably the major part of the capital invested in Mexico. Foreign interests controlled most of the mines, the petroleum industry, the principal electric power plants, a large part of the railways, several of the principal banks, numerous manufacturing and commercial establishments, and about one-fifth of the privately owned lands.^{2/}

The Mexican Revolution of 1910-1917, which was partly a reaction against the tremendous economic influence of foreign interests, marked a turning point in the development of foreign investments in Mexico. The decline to the current level and the changed industrial

^{1/} See sources for Table 4.
^{2/} Wythe, George, Industry in Latin America, 1949, Page 46.

distribution of the investments reflect the changed policies of the Mexican Government toward private enterprise generally, and foreign enterprise especially, following the Revolution. Under these policies private interests, domestic as well as foreign, have been largely eliminated from the petroleum industry and very materially reduced in the railways. Since foreign capital was predominant in railways and petroleum, it bore the brunt of the exclusion programme.

The emphasis in Mexican governmental policies has shifted, particularly since 1940, from direct social reforms to the objectives of increased production and economic development. Investment of foreign private capital has again been encouraged, although under certain conditions and particularly in manufacturing enterprises.

A. Distribution by industries

1. Mining

Mining activity in Mexico is carried on chiefly by foreign interests. As of 1939, these interests were 95 per cent United States in origin, 3 per cent British and 2 per cent French.^{1/} A survey of the industry showed that in 1941 the sixteen large companies, accounting for more than 80 per cent of the country's total mining production in 1947, were owned by United States interests.^{2/}

Mexico's mineral wealth has drawn the attention of foreigners since the very beginning of the colonial period. British and French interests had conducted mining operations since the 1820's, but

^{1/} United States Tariff Commission, Mining and Manufacturing Industries in Mexico, page 12, 1946.

^{2/} Hughlett, Lloyd J., Industrialization of Latin America, page 252. /extensive mining

extensive mining did not begin until the early days of the Diaz regime. The expansion was stimulated by the establishment of stable political conditions, the development of the railway system and the enactment of a uniform mining code and tax legislation. The mining code of 1884 granted to landowners "unquestioned title to whatever subsoil deposits there might be beneath the surface owned by them". The mining tax law of 1887 authorized the chief executive to grant special facilities to companies, domestic and foreign, making specified minimum investments. United States investors introduced improved machinery and techniques and built the first smelters. The development of industrial metals, such as lead and copper, was stimulated along with precious metals, which had hitherto received almost exclusive attention.

Investments by United States nationals proceeded rapidly during the Diaz period and were by far the leading segment of foreign investment in mining by 1911. British investments, which had antedated those of the United States and exceeded them in value at the beginning of the period, also increased significantly but were only second in rank by 1911.

During the revolutionary period after 1910 new investments in mining discontinued, operation of the mines practically ceased and substantial damage occurred to properties. Operation was resumed by 1919.

The estimated value of United States investments in 1929 was \$230 million but fell to \$168 million in 1940 and \$108 million in 1943.

/This decline may be

This decline may be attributed to write-downs and liquidations, the latter due in part to fear of expropriation based on the developments in petroleum, railways and agriculture. The United States Department of Commerce has estimated that an additional net reduction of \$4 million occurred in investments by United States nationals in Mexican mining enterprises during the years 1945-47.^{1/} In 1947 the Mexican Government purchased from United States interests a mining property known as Real del Monte y Pachuca, the world's largest silver mine.

The absolute decline of foreign investments in the Mexican mining industry over the past twenty years or more has been coupled with a downward trend of that industry, both absolutely and in relation to other economic activities. Metals production declined by 29 per cent between 1929 and 1948, chiefly on account of smaller output of gold and silver.^{2/} The wartime peak, attained in 1943, was still 13 per cent below 1929. The share of the national income derived from mining and metallurgy is estimated to have dropped from 13 per cent in 1929 to 7 per cent in 1946.^{3/}

1/ Excluding reinvestment of earnings by subsidiaries. See Table 3.

2/ Banco de México, S.A., Vigésimaséptima Asamblea General Ordinaria de Accionistas, page 78, 1949.

3/ United States House of Representatives Committee on Interstate and Foreign Commerce, Fuel Investigation, Mexican Petroleum, page 35. House Report No. 2470, 80th Congress, 2nd Session, 1949.

2. Public utilities

The capital invested in electric power and light facilities in 1947 was reported by the Mexican Federal Electricity Commission to be 75 per cent foreign-owned. The distribution of ownership is shown in Table 5.

Table 5

Investment in Mexican public electric power facilities, 1947

<u>Company</u>	<u>Investment (millions of dollars)</u>	<u>Per cent</u>	<u>Source of capital</u>
Mexico Light and Power Company and subsidiaries	91.6	43	Incorporated in Canada; owned by a Belgian company; probably includes Canadian, British, United States and Belgian capital.
American and Foreign Power Company and subsidiaries	60.1	28	United States
Monterrey Railway Limited and Power	7.8	4	Canada
Total Foreign	159.5	75	
Total Mexican	51.5	25	

The development of electric power in Mexico began in the decade 1890-1900 when several domestic and foreign companies began operations. Foreign enterprise started to operate on a large scale in 1902. A steady inflow of United States, British, Canadian and Belgian capital followed.

Since the establishment of the Federal Electricity Commission by the government in 1937 much of the expansion of power facilities has

/been carried out

been carried out by that organization. In 1939 the Commission operated only two plants with a total installed capacity of 755 kilowatts.^{1/} By 1948 the Commission had a total installed capacity of 115,992 kilowatts, or 11 per cent of the country's total capacity.^{2/} In August 1949 the Commission had under construction plants with a total capacity of 301,696 kilowatts and plans for additional capacity of 406,472 kilowatts. The Commission has been aided by loans of \$20 million from the Export-Import Bank and \$24 million from the International Bank.

It has been the policy of the Electricity Commission to supplement rather than supplant private enterprise and to sell electricity to private utilities whenever possible. Apparently confident of the security of their investments, the major foreign private electricity enterprises are proceeding with plans for expansion. At the end of 1947 the Mexico Light and Power Company and the American and Foreign Power Company reported projected capital expenditures of \$45 million and \$19 million respectively.

It is estimated that 95 per cent of the telephones in Mexico are operated by subsidiaries of United States and Swedish companies, the ownership of which is interlocking. Foreign capital has been engaged in telephone service since 1884, when operations were begun by the Mexican Telephone Company, which was controlled by United States

1/ United States House of Representatives, Fuel Investigation, page 65.

2/ Carillo Flores, Antonio, Practices, Methods and Problems Involved in the Domestic Financing of Economic Development in Mexico, document E/1562, 16 December 1949.

/capital.

capital. This company was succeeded in 1905 by the Mexican Telephone and Telegraph Company, which is now a subsidiary of the International Telephone and Telegraph Company, a United States corporation. A second company, Empresa de Teléfonos Ericsson, financed by Swedish capital began operations in 1902 and is now operating under a concession granted in 1926. The Swedish company has been acquired recently by a Mexican company, "Teléfonos Mexico, S.A.", in which a Swedish citizen, reportedly resident in Mexico, is believed to have a large interest.

International telegraphic service has been operated until recently by subsidiaries of United States companies. This service is now being operated by the Mexican Government following notice served on 17 June 1948 that the foreign-owned concession, due to expire one year later, would not be renewed. By this step the government completed its control over telegraphic services, the domestically-owned branch of which it has been operating since 1878.

3. Transportation

The Mexican railways were constructed largely between 1880 and 1910 and financed by private foreign capital. However, some 85 per cent of the share capital is now owned by the Mexican Government. The Southern Pacific Railway of Mexico, a United States subsidiary, with more than 2,000 miles of track, is now the only privately-owned railroad longer than 100 miles.

From 1880 to 1910 about 11,500 miles of track were built, adding to the 670 miles existing earlier. During the next thirty years Carrillo Flores, Antonio, op. cit., page 189.

(1910-1939), only

(1910-1939), only 450 miles of main line were constructed. Additions by the end of 1948 amounted to 850 miles.

Current capital expenditure can be expected to be concentrated largely on the improvement of existing facilities and the acquisition of rolling stock. Relatively little expenditure under these heads has been financed from domestic funds in the recent years. As previously indicated, the Export-Import Bank since 1945 has disbursed credits of \$26.0 million for the purchase of locomotives, rails and rolling stock for the Mexican National Railways. The Export-Import Bank lent an additional \$17.9 million in August 1949: \$12.9 million for the National Railways and \$5 million for the Southern Pacific.

The heavy flow of foreign capital into railways that began in the 1880's was facilitated by a governmental programme, providing subsidies to foreign investors, adopted after the failure of earlier attempts to promote railroad construction by Mexican nationals.^{1/} Estimates of the amount of foreign capital invested in the railways vary, but suggest that it approached \$1,000 million. One estimate places the amount of United States and British capital invested in railway shares and bonds in 1912 at \$811 million. Another places United States holdings of Mexican railway shares and bonds in 1911 at \$235 million and \$409 million, respectively, and British holdings of railway securities at \$450 million. French holdings of such securities in 1910 are estimated at \$17 million, and domestic Mexican capital at \$137 million.^{2/}

^{1/} Another important factor in the railway programme was no doubt the railway expansion programme then in process in the United States.

^{2/} These estimates are cited in Powell, Fred W., *The Railroads of Mexico*. Boston, Massachusetts, 1921. /By 1900 the Mexican

By 1900 the Mexican Government had become concerned over the control of the railways of foreign interests. During the period 1902-1909 plans were made by the Federal Government to acquire the bulk of railway mileage. This involved the formation of a Mexican incorporation, the National Railways of Mexico, in which the majority of shares was taken by the Mexican Government. Payment for shares in the old companies was made largely in bonds of the new company. Thus, while the financial interest of foreigners in the affected railways was not reduced, their holdings changed from direct to portfolio investments.

New foreign private financing of railway construction virtually ceased after 1910 and since that time the value of foreign holdings in Mexican railways has declined sharply. This has been due to a number of factors: the default of 1914 on government and railway obligations; further absorption by the National Railways of Mexico of foreign-owned private lines; damage to properties during the revolutionary period; and the complete expropriation in 1937 by the Mexican Government of the properties of the National Railways of Mexico, the major part of whose share capital it already owned. The trend toward government ownership of the railways was continued in recent years by the purchase in 1944 of the British-owned Interoceanic Railway, representing about 8 per cent of the country's mileage, and in 1946 of the British-owned Mexican Railways, Limited, representing about 3 per cent of the mileage. A minor departure from this trend was the sale by the government in January 1946 of the small

Northwestern Railway to a syndicate of Mexican and United States investors.

Investment by United States interests has played a major role in the development of Mexican civil aviation, which has expanded rapidly in the last decade. The three largest air-lines, representing about one-third of the total share capital, are Mexican enterprises partly owned by Pan American Airways (United States) and United Air Lines (United States). International air transport to Mexico is carried on by six companies, three of which are of United States ownership, two Mexican and one Honduran.

4. Petroleum

The presence of petroleum deposits in Mexico was known as early as the 1850's and attempts to exploit them were made by various groups. Little was accomplished, however, until about 1900 when the President of the Mexican Central Railroad induced a group of Americans headed by Mr. E. L. Doheny to extract oil in Mexico as fuel for the Mexican Central Railroad.^{1/} Doheny's company, Mexican Petroleum Company of California, acquired 280,000 acres of land for \$325,000 and in May 1901 "brought in" its first productive well. The company's operations expanded rapidly, and within a few years other foreign companies, some of which were British, had entered the field.

This development was greatly facilitated by the Mexican Mining Codes of 1884 and 1892, both of which stipulated that rights to petroleum and other minerals belonged to the owner of the surface soil,

^{1/} United States Senate, Investigation of Mexican Affairs, Document 285, 66th Congress, 2nd Session, page 209.

/and by Mexico's first

and by Mexico's first petroleum law, promulgated in 1901, which provided for concessions facilitating the extraction of petroleum in publicly-owned lands.

The expansion of the petroleum industry did not cease during the revolutionary period as did other industries. A peak production of 193 million barrels was reached in 1921 and was second only to production in the United States. The value of United States investments in the industry at this time is estimated at \$300 million. This estimate agrees closely with an official estimate by the Mexican Government made early in 1923 that the total value of investments in petroleum was \$520.7 million, of which 57.7 per cent was United States owned, 33.8 per cent British, 6.7 per cent Dutch, and 1.1 per cent Mexican.

From the early 1920's to 1937, production and foreign investments in the petroleum industry declined steadily. Production fell from 193 million barrels in 1921 to 47 million barrels in 1937. The decline resulted from uncertainties concerning the government's policies pursuant to the Constitution of 1917, which abandoned the principle of ownership of the sub-soil by the surface owner, from exhaustion of some of the deposits and from a shift by the companies to move profitable operations in other countries.

Since the expropriation of the principal private petroleum companies in March 1938, the production of petroleum has been in the hands of a governmental corporation known as Petróleos Mexicanos. On

the eve of expropriation, foreign interests, mainly United States, British and Dutch, controlled 97 per cent of total production. The estimated value of foreign investments in petroleum immediately before expropriation varies widely according to the sources consulted. The Mexican Industrial Census of 1935 puts United States interests in that year at \$42 million and Anglo-Dutch interests at \$49 million. The companies themselves at the time of expropriation valued United States interests at \$200 million and Anglo-Dutch at \$250 million. As noted above the final settlement accorded United States investors \$38 million and Anglo-Dutch interests \$130 million.

Since the end of the last war some private foreign capital has again entered the petroleum industry but on a very limited basis. (See pages 61-65 below)

The 1937 level of production of 47 million barrels was not again reached until 1946, when 49 million barrels were produced. An increase to 61 million barrels was achieved in 1949. Extraction is made principally from four fields which have been exploited for many years. However, some new discoveries have been made recently in the north-eastern part of the country and elsewhere along the coast of the Gulf of Mexico. Known reserves increased from 835 million barrels in 1938 to 1,270 million barrels in 1949.^{1/} Domestic consumption of petroleum products is on the increase. Foreign markets which in 1937 absorbed more than half of total sales, took only little

^{1/} According to the Chief of Exploration of Petróleos Mexicanos, quoted in El Mercado de Valores, Nacional Financiera, S.A.,⁶ March 1950.

more than 20 per cent in 1948.

5. Manufacturing

The promotion of manufacturing has been a basic feature of the economic policies of the Mexican Government, particularly since 1941, when the war-induced shortage of numerous imported articles began to be felt. The volume of manufacturing production increased by half from 1939 to 1948, and the growth accelerated in 1949. Most of this increase has been effected with local capital, both governmental and private.

Foreign capital, particularly from the United States, has been participating increasingly in manufacturing during the past decade. The estimated value of aggregate foreign investments rose from \$18 million in 1939 to \$51 million in 1945, according to the Bank of Mexico. Manufacturing accounted for \$17 million of a net inflow of capital from the United States for direct investment of \$25 million in the period 1945-1947. Yet the amount of foreign capital is still small in comparison with total investment in Mexican manufacturing and with total foreign investments in all fields. It is probably not much more than 5 per cent of the former or 10 per cent of the latter.

As previously indicated, Export-Import Bank loans have contributed to the establishment of certain manufacturing industries, including steel and sugar production, beef canning, and the production of ammonium sulphate.

Much of the United States investment in Mexican manufacturing industries in the post-war period has been on the basis of participation with local capital. In some instances, participation by United States

interests has been limited to the leasing of patent rights. A typical instance is the arrangement between "Industria Eléctrica de México", a plant devoted to the manufacture of electrical equipment and supplies, and the Westinghouse International Electric Corporation. United States manufacturing enterprises that have made investments in Mexico, some on a joint basis with Mexican capital, include the following: Libby, McNeill and Libby (food canning); Celanese Corporation of America (rayon yarn); Burlington Mills Corporation (textiles); Continental Can Company (containers); A. P. Green Corporation (refractories); International Harvester (farm implements and machinery); Johns-Manville (asbestos products); Marquette Cement and Universal Atlas (cement); Nash-Kelvinator and Studebaker Corporation (automobile assembly); R. K. O. (films); Reynolds Metals Company (aluminum products); Rheem Manufacturing Company (steel drums); Mission Dry of California (soft drinks); Columbia Recording Corporation (phonograph recording); International General Electric Company (electrical appliances); American Cyanamid Company (chemical dyes); and Peter J. Schweitzer Corporation (cigarette paper and tissues). United States capital was participating in more than half of the more important manufacturing plants under construction in June 1946, or completed and placed in operation within the previous year.^{2/}

1/ United States House of Representatives, Fuel Investigation, page 43; and Wythe, George, op. cit., page 296.

2/ Kimber, Albert, Latin American Industrialization, 1946, page 33.

Report of the Special Committee on Economic Conditions in Latin America
and the Caribbean Sea, and the Economic Development of the Region

E/CN.12/166/Add.8

Page 36

Foreign investors, particularly from France, Spain, the United Kingdom and the United States, have been interested in various manufacturing enterprises in Mexico since the early nineteenth century. In many cases early investors, particularly those of French and Spanish origin, settled in Mexico and often passed on their investments to descendants who remained in the country.

The degree of control by foreigners in specific manufacturing industries varies greatly. Control of textiles and foods and beverages, the two most important groups, is largely Mexican. In cotton textiles, the most important single branch it is estimated that in 1930-1935 39 per cent of the production was controlled by Spanish capital, 37 per cent by French capital and 19 per cent by Mexican capital.¹¹ The rayon yarn industry is now largely controlled by United States interests. Spanish interests are estimated to have controlled some 26 per cent of the grain mill industry and 25 per cent of brewery production during the 1930's. British and United States interests participate in the food canning and preserving industry.

The third largest steel mill is controlled by United States capital, but foreign investment in this industry is comparatively small. The Export-Import Bank lent \$8 million for the construction of what is now the second largest steel mill, and has also granted credits to other steel mills.

Foreign interests, especially British and American, are represented in the tobacco industry. While there is some British and United States participation in the soap industry, the control is largely Mexican.

The chemical and pharmaceutical industries, especially the latter, have important foreign interests. Large German pharmaceutical laboratories were taken over during the war and sold to private interests. Probably the major part of current production is now accounted for by United States companies.

The automobile assembly and rubber industries are dominated by branches and subsidiaries of United States companies.

6. Agriculture

Both the United States Treasury Census of foreign investments in 1943 and the Bank of Mexico estimate for the same year show that foreign capital represented less than 5 per cent of the total investment in agriculture. This low figure may be attributed to the Mexican agrarian programme, directed, however, against the holding of large estates rather than against foreign holdings as such.

Prior to the Revolution of 1910-1917, one main theme of which was the redistribution of large landed estates, foreigners owned about one-fifth of the private lands of Mexico; of these, United States nationals held about half. Many foreign properties exceeded one million acres.

The expropriation of large estates began about 1916 and took place mainly during the years 1934-1940. By 1940 approximately half the arable lands was held by communal groups known as "ejidos", the

/balance being

balance being held privately though subject to the maximum limits of size imposed by agrarian laws.

The matter of compensation for the expropriated foreign holdings has been the subject of many controversies and of diplomatic interchanges between the Mexican and United States Governments. Partial compensation, in some instances through the issuance of bonds to affected landholders, has been made from time to time. A settlement of November 1941 between the Mexican and United States Governments provided for payment by Mexico of \$40 million over a period of years.

A considerable part of the United States capital still invested in Mexican agriculture is engaged in the production and marketing of winter vegetables and in cattle raising in the northern part of the country.

Some United States governmental capital has recently been loaned or granted to promote Mexican agriculture. A credit of \$5 million to facilitate importation of agricultural equipment was authorized by the Export-Import Bank in November 1947. A total of some \$41 million was disbursed in Mexico by the United States Department of Agriculture in the fiscal year ended 30 June 1949, mainly in connexion with the campaign for the control and eradication of hoof-and-mouth disease.^{1/}

7. Trade and finance

While only a small proportion of the foreign capital invested is engaged in distribution activities there have been increased foreign investments, particularly by United States capital, in the last decade.

^{1/} United States Department of Commerce, Foreign Transactions of the United States Government, October 1949, page A-75.

/According to the

According to the Bank of Mexico foreign investments in trading enterprises rose from \$9 million in 1938 to \$24 million in 1945. United States estimates similarly show an increase in "trade and finance", probably mostly in trade, from \$8 million in 1936 to \$22 million in 1943. An additional \$12 million of United States capital entered "distribution" during 1945 through 1947. Sears, Roebuck and Company is one of the most important United States enterprises established in distribution in recent years. Other originally foreign capital, particularly French and Spanish, invested in distribution activities for generations is largely "domesticated".

Foreign-owned banks and insurance companies have practically disappeared from Mexico, largely as a result of restrictive legislation in these fields enacted in the middle 1930's. The only recent departure from this trend is the participation of some United States firms in investment companies in co-operation with local interests.

B. Foreign investment and economic development

While exact information on the use made of the government's external borrowing is not available, it is reasonable to assume that a substantial portion was devoted directly to investment. The railways were developed largely with the aid of foreign capital. The same is true of electric power, at least until the past ten to fifteen years. Other transportation and communications facilities, such as telephones and air transport, have also depended largely on foreign capital. The mining and petroleum industries were initially developed with foreign capital. These industries have also facilitated general

development indirectly since they are important sources of foreign exchange. Much of early manufacturing and distribution activity also resulted from foreign initiative.

Investment during the past decade has been financed largely from domestic sources. Loans obtained from the Export-Import Bank and the International Bank for Reconstruction and Development between 1941 and early 1949 amounted to about \$135 million, only 4.4 per cent of gross investment during the period.^{1/} Estimates of foreign direct investment do not alter the conclusion substantially. Such investments in 1946 and 1947 were estimated at \$85 million, representing 7.4 per cent of estimated gross capital formation, governmental and private.

It was pointed out above that the degree of foreign participation is at present greatest in mining and public utilities and relatively small in manufacturing, trade, finance, agriculture and transportation. As indicated in Table 6, mining has accounted for a diminishing proportion of total national income: 14.1 per cent in 1938, 12.7 per cent in 1940, and 7.8 per cent in 1945. The importance of public utilities in the total cannot be evaluated since they are included under "manufacturing" and "other services". "Manufacturing" and "commerce and finance", however, together accounted for almost half the total in 1945. The ratio of foreign to total investment was 80 per cent in

1/ Carrillo Flores, *op. cit.*, page 184.

mining, 5 per cent in manufacturing, and 15 per cent in transportation. From these figures it may be estimated that foreign-owned enterprises in mining accounted for 6.2 per cent of the national income, in manufacturing for 1.3 per cent, and in transportation for 0.7 per cent, or a total of 8.2 per cent.

If other private foreign investments and intergovernmental loans are taken into account, a reasonable figure would appear to be in the neighbourhood of 10 per cent of the total income.

	1950	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	20100	20101	20102	20103	20104	20105	20106	20107	20108	20109	20110	20111	20112	20113	20114	20115	20116	20117	20118	20119	20120	20121	20122	20123	20124	20125	20126	20127	20128	20129	20130	20131	20132	20133	20134	20135	20136	20137	20138	20139	20140	20141	20142	20143	20144	20145	20146	20147	20148	20149	20150	20151	20152	20153	20154	20155	20156	20157	20158	20159	20160	20161	20162	20163	20164	20165	20166	20167	20168	20169	20170	20171	20172	20173	20174	20175	20176	20177	20178	20179	20180	20181	20182	20183	20184	20185	20186	20187	20188	20189	20190	20191	20192	20193	20194	20195	20196	20197	20198	20199	20200	20201	20202	20203	20204	20205	20206	20207	20208	20209	20210	20211	20212	20213	20214	20215	20216	20217	20218	20219	20220	20221	20222	20223	20224	20225	20226	20227	20228	20229	20230	20231	20232	20233	20234	20235	20236	20237	20238	20239	20240	20241	20242	20243	20244	20245	20246	20247	20248	20249	20250	20251	20252	20253	20254	20255	20256	20257	20258	20259	20260	20261	20262	20263	20264	20265	20266	20267	20268	20269	20270	20271	20272	20273	20274	20275	20276	20277	20278	20279	20280	20281	20282	20283	20284	20285	20286	20287	20288	20289	20290	20291	20292	20293	20294	20295	20296	20297	20298	20299	20300	20301	20302	20303	20304	20305	20306	20307	20308	20309	20310	20311	20312	20313	20314	20315	20316	20317	20318	20319	20320	20321	20322	20323	20324	20325	20326	20327	20328	20329	20330	20331	20332	20333	20334	20335	20336	20337	20338	20339	20340	20341	20342	20343	20344	20345	20346	20347	20348	20349	20350	20351	20352	20353	20354	20355	20356	20357	20358	20359	20360	20361	20362	20363	20364	20365	20366	20367	20368	20369	20370	20371	20372	20373	20374	20375	20376	20377	20378	20379	20380	20381	20382	20383	20384	20385	20386	20387	20388	20389	20390	20391	20392	20393	20394	20395	20396	20397	20398	20399	20400	20401	20402	20403	20404	20405	20406	20407	20408	20409	20410	20411	20412	20413	20414	20415	20416	20417	20418	20419	20420	20421	20422	20423	20424	20425	20426	20427	20428	20429	20430	20431	20432	20433	20434	20435	20436	20437	20438	20439	20440	20441	20442	20443	20444	20445	20446	20447	20448	20449	20450	20451	20452	20453	20454	20455	20456	20457	20458	20459	20460	20461	20462	20463	20464	20465	20466	20467	20468	20469	20470	20471	20472	20473	20474	20475	20476	20477	20478	20479	20480	20481	20482	20483	20484	20485	20486	20487	20488	20489	20490	20491	20492	20493	20494	20495	20496	20497	20498	20499	20500	20501	20502	20503	20504	20505	20506	20507	20508	20509	20510	20511	20512	20513	20514	20515	20516	20517	20518	20519	20520	20521	20522	20523	20524	20525	20526	20527	20528	20529	20530	20531	20532	20533	20534	20535	20536	20537	20538	20539	20540	20541	20542	20543	20544	20545	20546	20547	20548	20549	20550	20551	20552	20553	20554	20555	20556	20557	20558	20559	20560	20561	20562	20563	20564	20565	20566	20567	20568	20569	20570	20571	20572	20573	20574	20575	20576	20577	20578	20579	20580	20581	20582	20583	20584	20585	20586	20587	20588	20589	20590	20591	20592	20593	20594	20595	20596	20597	20598	20599	20600	20601	20602	20603	20604	20605	20606	20607	20608	20609	20610	20611	20612	20613	20614	20615	20616	20617	20618	20619	20620	20621	20622	20623	20624	20625	20626	20627	20628	20629	20630	20631	20632	20633	20634	20635	20636	20637	20638	20639	20640	20641	20642	20643	20644	20645	20646	20647	20648	20649	20650	20651	20652	20653	20654	20655	20656	20657	20658	20659	20660	20661	20662	20663	20664	20665	20666	20667	20668	20669	20670	20671	20672	20673	20674	20675	20676	20677	20678	20679	20680	20681	20682	20683	20684	20685	20686	20687	20688	20689	20690	20691	20692	20693	20694	20695	20696	20697	20698	20699	20700	20701	20702	20703	20704	20705	20706	20707	20708	20709	20710	20711	20712	20713	20714	20715	20716	20717	20718	20719	20720	20721	20722	20723	20724	20725	20726	20727	20728	20729	20730	20731	20732	20733	20734	20735	20736	20737	20738	20739	20740	20741	20742	20743	20744	20745	20746	20747	20748	20749	20750	20751	20752	20753	20754	20755	20756	20757	20758	20759	20760	20761	20762	20763	20764	20765	20766	20767	20768	20769	20770	20771	20772	20773	20774	20775	20776	20777	20778	20779	20780	20781	20782	20783	20784	20785	20786	20787	20788	20789	20790	20791	20792	20793	20794	20795	20796	20797	20798	20799	20800	20801	20802	20803	20804	20805	20806	20807	20808	20809	20810	20811	20812	20813	20814	20815	20816	20817	20818	20819	20820	20821	20822	20823	20824	20825	20826	20827	20828	20829	20830	20831	20832	20833	20834	20835	20836	20837	20838	20839	20840	20841	20842	20843	20844	20845	20846	20847	20848	20849	20850	20851	20852	20853	20854	20855	20856	20857	20858	20859	20860	20861	20862	20863	20864	20865	20866	20867	20868	20869	20870	20871	20872	20873	20874	20875	20876	20877	20878	20879	20880	20881	20882	20883	20884	20885	20886	20887	20888	20889	20890	20891	20892	20893	20894	20895	20896	20897	20898	20899	20900	20901	20902	20903	20904	20905	20906	20907	20908	20909	20910	20911	20912	20913	20914	20915	20916	20917	20918	20919	20920	20921	20922	20923	20924	20925	20926	20927	20928	20929	20930	20931	20932	20933	20934	20935	20936	20937	20938	20939	20940	20941	20942	20943	20944	20945	20946	20947	20948	20949	20950	20951	20952	20953	20954	20955	20956	20957	20958	20959	20960	20961	20962	20963	20964	20965	20966	20967	20968	20969	20970	20971	20972	20973	20974	20975	20976	20977	20978	20979	20980	20981	20982	20983	20984	20985	20986	20987	20988	20989	20990	20991	20992	20993	20994	20995	20996	20997	20998	20999	201000	20101	20102	20103	20104	20105	20106	20107	20108	20109	20110	20111	20112	20113	20114	20115	20116	20117	20118	20119	20120	20121	20122	20123	20124	20125	20126	20127	20128	20129	20130	20131	20132	20133	20134	20135	20136	20137	20138	20139	20140	20141	20142	20143	20144	20145	20146	20147	20148	20149	20150	20151	20152	20153	20154	20155	20156	20157	20158	20159	20160	20161	20162	20163	20164	20165	20166	20167	20168	20169	20170	20171	20172	20173	20174

Table 6
National income at factor cost
(In millions of pesos)

	1938		1940		1945	
	Value	Per cent	Value	Per cent	Value	Per cent
Manufacturing ^{a/}	1,118	21.0	1,648	24.2	3,020	25.2
Commerce and finance	997	18.7	1,420	20.9	2,870	24.0
Agriculture	546	10.3	548	8.1	1,214	10.1
Mining and metallurgy	750	14.1	862	12.7	946	7.8
Government ^{b/}	478	9.0	556	8.2	850	7.1
Rente/ ^{c/}	331	6.2	435	6.4	750	6.3
Livestock and poultry raising	302	5.7	344	5.1	622	5.2
Transportation	215	4.0	262	3.9	545	4.6
Other services	214	4.0	245	3.6	413	3.4
Domestic service	168	3.2	220	3.2	400	3.3
Forestry	58	1.1	70	1.0	138	1.2
Petroleum and derivatives	134	2.5	161	2.4	136	1.1
Fishing	12	0.2	31	0.5	80	0.7
	5,323	100.0	6,802	100.0	11,978	100.0

Source: United Nations, National Income Statistics, 1938-1947, 1948, page 68.

- a/ Excludes motion picture industry; includes construction, electric power and gas.
- b/ Includes public works.
- c/ Includes imputed rent of owner-occupied houses.

Note: These estimates were made under the auspices of the Mexican Dirección General de Estadística, Ministry of Economy. There is a considerable disparity between these totals and those estimated by the Bank of Mexico, as quoted in Carrillo Flores, op. cit. The Bank of Mexico estimates 6,200 million pesos for 1940 and 16,000 million pesos for 1945. No subdivision by industries is available in the Bank of Mexico estimates.

/A computation of

A computation of this kind naturally does not indicate the indirect effects of foreign investments. The flow of such investments into manufacturing, for example, means that much knowledge of modern technical processes is being brought into Mexico and applied both in existing industries and in the formation of new ones. A similar contribution is undoubtedly being made in the field of distribution. Furthermore, the key importance in the economy of the services rendered by public utilities tends to be understated in a quantitative comparison. Similarly, mining when measured by other criteria such as the earning of foreign exchange appears to be of greater importance than indicated when judged alone by its relative share of the total national income.

C. Foreign investment and the balance of payments

During the years immediately before the Second World War, the inflow of foreign capital represented a small proportion of receipts of foreign exchange in Mexico. Account must also be taken of the fact that substantial amounts of capital were probably withdrawn as a reaction to the expropriation and redistribution of agricultural lands from 1934 to 1940 and the expropriation of railway and petroleum holdings in 1937 and 1938. In 1938, the only pre-war year for which there is an official balance of payments statement, a net private capital inflow of only \$5.8 million was recorded, equivalent to about 5 per cent of the value of imports.^{1/}

^{1/} International Monetary Fund, Balance of Payments Yearbook, 1938-1947, 1949, pages 250-251.

As previously indicated, service on the public debt was in total default before the war. The transfer of income of direct investments was facilitated by the export surplus. In 1938 the transfer of such income amounted to \$40.7 million, while the export surplus was \$42.9 million.^{1/}

The probable outflow of capital during the 1930's exerted a pressure on the balance of payments which resulted in a depreciation of the peso. No exchange control was imposed by the Mexican Government, but there was occasional intervention by the Bank of Mexico in the exchange market to prevent excessive exchange fluctuations. The peso depreciated from an average selling rate of 3.60 per United States dollar in 1937 to 5.40 in 1940.

The inflow of foreign capital has increased substantially since the end of the war. Direct investments by United States nationals accounted for net receipts of about \$35 million during 1946-1948. Drawings on Export-Import Bank credits amounted to \$79.2 million during that same period. These receipts have contributed to some degree toward financing heavy deficits on current account, but have fallen far short of the total deficit during the period. The deficit on merchandise account totaled \$625 million from 1946 to 1948. The import surplus reached a peak in 1947, reflecting the release of demand deferred from the war years and the impact on imports of the government's development

^{1/} Including an extraordinary distribution, in partial liquidation, by a United States-owned mining company.

programme. The reduction of the import surplus since that year is the result of a combination of factors: The exhaustion of deferred wartime demand, the tightening of credit and fiscal policies, import prohibitions on certain "luxury" items imposed in July 1947, tariff increases enacted in the fall of that year, and discontinuation of the rate of 4.85 pesos to the dollar in July 1948, followed by depreciation to 8.65 in June 1949.

The transfer abroad of income on foreign investments has increased considerably in the post-war period as a result of the resumption of service on the foreign debt, the incurring of new intergovernmental debts, and an increase in the yield of direct investments. The transfers of investment income and amortization of long-term capital averaged \$75 million annually during the years 1946-1948. An annual increase of some \$10 million for service of public debt is estimated for 1950. Whereas the transfer of income on investments in the pre-war period was facilitated by export surpluses, import surpluses equivalent to about three times the amount of the increased transfer requirements have occurred in the post-war period.

Table 7
Balance of payments of Mexico, 1948
 (In millions of dollars)

A. Current transactions

Deficit on merchandise and non-monetary gold	- 125
Interest and dividend payments (preliminary)	- 50
Foreign travel (net income)	94
Other services, etc. (net income)	36
Deficit on current transactions	- 45

B. Capital and monetary gold

Direct investments (inflow from United States only)	16
Amortization of public debt	23
Export-Import Bank loans	18
United States governmental grants	7
Decrease in official holdings of gold and foreign exchange	64
Total capital account	82

C. Errors and omissions

 - 37

Note: Adapted from data of International Monetary Fund, International Financial Statistics, October 1949, page 167; source for amount of capital inflow from United States for direct investment is Milton Abelson, op. cit.

Balance of payments deficits in the post-war period resulted in a heavy outflow of official gold and foreign exchange holdings, utilization of resources from the International Monetary Fund and the United States Treasury Stabilization Fund, and, finally in the decisions by the Bank of Mexico to allow the peso to depreciate in July 1948 and June 1949.

/Mexican officials

Mexican officials have repeatedly indicated their determination to avoid the use of exchange control to meet pressure on the balance of payments. One reason for this policy has been the desire to attract the investment of foreign capital. While the very existence of this pressure and the anticipation of measures to meet them may have deterred potential investors, the existence of a free market for foreign exchange transactions has undoubtedly been a strong offsetting factor.

1. Yields on foreign capital

Income received in the United States from direct investments in Mexico,^{1/} expressed as a percentage of the value of the investments, has more than doubled since the pre-war period. Yields in 1939 and 1940 were 3.1 per cent and 3.9 per cent respectively; in 1943, 5.9 per cent; and in 1946, approximately 7.0 per cent.

Since these percentages do not include non-distributed earnings of subsidiaries, they underestimate the profitability of the investments. The understatement equals the reinvestment by subsidiaries amounted to \$6.7 million in 1945 and \$8.4 million in 1946.^{2/} Transferred income amounted to \$10.8 million and \$20.9 million respectively. Thus, total income, in these years, including reinvestments, was \$17.5 million and \$29.3 million respectively. The yield in 1946 comes to 9.2 per cent (assuming the value of investments as \$300 million), as against 7.0 per cent for income transferred. Reinvested earnings amounted to

^{1/} Such income does not include reinvested earnings of subsidiary corporations. It consists of total income of branches and dividends of subsidiaries.

^{2/} United States Department of Commerce, The Balance of International Payments of the United States, 1946-1948, 1950, pages 261-262 /38.3 per cent

38.3 per cent of the total income in 1945 and 28.7 per cent in 1946, exclusive of reinvestment of branches.^{1/}

These average yields conceal considerable variations among groups of industries. The lowest yields appear to have occurred in public utilities, presumably because of relatively inflexible income in the face of increasing costs, and the highest in manufacturing.

Yields of income on direct investments in Mexico have consistently been below the average for United States direct investments in Latin America. The average yield for Latin America were 6.6 per cent in 1943 and 9.7 per cent in 1946 (5.9 per cent and 7.0 per cent, respectively, for Mexico). It may be noted that the average for all of Latin America in recent years is heavily weighted by the high returns in the petroleum industry, which do not exist in the case of Mexico.

British investments in Mexico are reported to have yielded substantially lower returns than United States direct investments. The yield of income transferred on such investments averaged 1.5 per cent for the period 1932-1941 and was 2.8 per cent in 1946.^{2/} These yields, however, are not directly comparable with those indicated above for United States direct investments. They relate to securities traded on the London Stock Exchange, include portfolio investments and

^{1/} The percentage of total income reinvested, exclusive of branches, for all of Latin America was 24.8 per cent in 1945 and 22.2 per cent in 1946.

^{2/} South American Journal, London, 10 April 1948.

/are calculated

are calculated on the basis of nominal or par values of the securities rather than the "book values" at which United States direct investments are reported.

III. GOVERNMENT POLICY AND FOREIGN INVESTMENT

A. General Controls

1. Nationality of ownership

The right of foreigners to acquire property in Mexico is subject to the constitutional requirement that they expressly agree to submit exclusively to Mexican jurisdiction in connexion with their property rights. The Constitution of 1917, in Article 27, Section 1, sets forth this requirement as follows:

"Only Mexicans by birth or naturalization and Mexican companies have the right to acquire ownership of lands, waters, and their appurtenances, or to obtain concessions for working mines or for the utilization of waters or mineral fuel in the republic of Mexico. The nation may grant the same right to aliens, provided they agree before the Ministry of Foreign Relations to consider themselves as Mexicans in respect to such property, and bind themselves not to invoke the protection of their governments in matters relating thereto, under penalty, in case of non-compliance, of forfeiture to the nation of property so acquired. Under no circumstances may foreigners acquire direct ownership of lands and waters within a zone of 100 kilometres along the frontiers and of 50 kilometres inland from the seacoast".

Pursuant to this provision, companies with foreign shareholders customarily include a clause in their charters stipulating that foreign shareholders shall be considered as Mexican citizens in so far as their rights in the company are concerned.

In addition, foreigners may participate in most types of enterprises in Mexico only with the permission of the Ministry of Foreign Relations. A decree of 27 June 1944, stipulates that

/foreigners and

foreigners and Mexican companies with foreign shareholders require permission from the Ministry in order to acquire existing enterprises or control thereof, when the enterprises are devoted to (a) industry, (b) agriculture, (c) stockraising, (d) forest exploitation, and (e) purchase, sale or exploitation of rural or urban real estate. The Ministry's permission must likewise be obtained to acquire ownership of lands, waters, and mineral fuel permitted by ordinary legislation. These terms apply to leases of more than ten years and to trust contracts as well as outright acquisition. The legislation further stipulates that the Ministry's permission is required in order (a) to organize companies that have or may have foreign shareholders and are devoted to any of the mentioned activities; (b) to modify or transform Mexican companies already in existence or to be formed in the future that have or may have foreign shareholders, if Mexican shareholders are replaced by foreign shareholders, or if the nature of the company's activities is changed; and (c) to transfer control of the enterprise to foreign shareholders. The permission of the Ministry in all cases may, at its discretion, be granted on condition that nationals own at least 51 per cent of the capital stock and that the majority of directors or partners be Mexicans.

The government thus reserves the right of approving most private direct investments on an individual basis. There is no evidence of any significant exclusion of foreign capital under this decree. A governmental Committee on Foreign Investment was established in 1947 to co-ordinate the application by the Ministries of the government of the

/various regulations

various regulations affecting foreign investment. The chairman of the Committee announced in October 1947 that it was conducting studies to determine whether any change is necessary in the present policy which requires 51 per cent participation by Mexican capital in the enterprises engaged in radio broadcasting; production, distribution and exhibition of motion pictures; air transportation operating solely within Mexican territory; urban and interurban transportations; fishing; soft drinks; and publishing.

The decree of June 1944 has been applied liberally, particularly in manufacturing, both with respect to securing the necessary permission to invest and the requirement of 51 per cent Mexican participation. As previously indicated, numerous United States firms have recently made important investments in Mexico, many jointly with local capital. Immigrant investors must be individually approved by the Ministry of Interior. Among other requirements, they must submit evidence of having a minimum capital of 100,000 pesos (about \$11,600 at the current rate of 8.65 pesos to the dollar) if they intend to establish their business in the Federal District (which includes Mexico City), and 50,000 pesos in other parts of the country.

2. Personnel

The employment of aliens in Mexico is strictly regulated. The Federal Labour Law of August 1931 stipulates that all business enterprises shall employ not less than 90 per cent Mexican workmen in each of the technical and unskilled classes, unless authorized to

/reduce the proportion

reduce the proportion temporarily. The proportion is 80 per cent for enterprises with no more than five workers. These restrictions do not apply, however, to managers, directors, administrators, superintendents, or the general heads of concerns. In general, employers are required to give preference to Mexicans over aliens. The General Law of Population permits immigration for employment as technicians or specialists only when qualified persons are not available in Mexico. Immigration of labourers and of persons seeking employment is not permitted. The practice of professions by foreigners in the Federal District and Federal Territories is similarly circumscribed by a Law regulating the Practice of Professions.

The legislation described has probably had the effect of stimulating foreign enterprises to train the local labour force. There is still a great need, however, for skilled technicians which makes it necessary for foreign-operated enterprises frequently to seek special permission to hire of foreign personnel. Although this procedure may involve administrative difficulties and delays, it may be presumed that the appropriate regulations are generally administered so that necessary foreign personnel is admitted.

3. Taxation

Mexican tax laws apply in principle without discrimination to foreign and domestic nationals alike. Income taxes are levied primarily on income derived from sources in Mexico. Residence is generally irrelevant as a factor determining tax liability. Non-Mexicans residing in Mexico are generally not subject to Mexican taxes on income from sources outside Mexico. /The rates of income

The rates of income tax depend not only on the size of income but upon the kind of income earned. The rates applicable to income from general business range from 3.8 per cent on the portion of net income between 2,000-2,400 pesos to 30 per cent on that exceeding 500,000 pesos. An excess profits tax was established in January 1949 applies to enterprises with an annual income of 200,000 pesos or more. Excess profits are defined as those over 15 per cent of "invested capital," the latter consisting of paid-in capital stock, capital reserves and undistributed profits. Tax rates range from 5 per cent on profits of 15 per cent to 20 per cent, to 25 per cent on profits in excess of 50 per cent. Unlike other business taxes no exemptions from this tax may be accorded to "new or necessary" industries.

A separate schedule of rates applies to interest and dividends, rents, royalties and similar income from invested capital. There is a basic rate of 10 per cent, and a surtax ranging from 0.4 per cent on incomes between 2,400 and 3,600 pesos to 23.1 per cent on incomes exceeding 500,000 pesos. Dividends are subject to a uniform tax of 8 per cent but are exempt from the progressive surtaxes. A third schedule applies to income derived from government concessions or extractive industries. The rates, which are higher than those on general business income, include a basic tax of 10.2 per cent plus a surtax ranging from 3.5 per cent on the first 2,400 pesos to 31 per cent on income in excess of 500,000 pesos.

Mining, which is controlled largely by foreign interests, is subject to the special schedule of income-tax rates, as noted above,

/and, in addition

and, in addition, to a tax based on the value of production. The latter tax consists of a fixed basic rate (for example, 1.4 per cent on antimony ore, 2.7 per cent on copper ore) and of a sliding scale of surtaxes which vary with the market prices of the ore in New York, expressed in Mexican currency. It has been contended by mining enterprises in Mexico that this system tends to force depletion of high-grade ores at an excessive rate because of the relative unprofitability of working low-grade ores. They have suggested a higher rate of income tax as an alternative.^{1/}

Newly-formed manufacturing enterprises have been accorded tax exemption privileges since May 1941. These privileges were liberalized by a Law for the Development of Manufacturing Industries, effective since February 1946. Enterprises in industries deemed to be "fundamental" may be granted tax concessions for a period of 10 years; in industries considered of "economic" but not fundamental importance, for 7 years; and in other "new or necessary" industries, for 5 years. Each application is judged of its own merits. Exemptions may cover export and import duties, normal taxes on business incomes and other federal taxes but not the excess profits tax. Numerous firms, domestic and foreign, are reported to have been accorded tax-exemptions under these provisions. It is estimated that the number so benefiting was 350 in 1945 and 585 in 1948.^{2/}

^{1/} See United States House of Representatives, Fuel Investigation, pages 38-40.

^{2/} Carrillo Flores, Antonio, op. cit., page 203.

/The level of

The level of taxation in Mexico affecting foreign-owned enterprises is thus relatively low, except in the extractive industries. Liberal tax exemptions are, furthermore, provided to manufacturing industries.

The degree to which these low tax liabilities can be effective incentives, however, is limited by tax policies in the home countries of the investors.^{1/}

4. Commercial policy

Mexico's commercial policy particularly since the end of the war, has aimed at greater protection to the expanding manufacturing industries against foreign competition, and at mitigating pressure on the balance of payments arising from the increased demand for foreign goods. The entire schedule of import duties was revised in November 1947. Rates were raised for finished products generally, while low rates were maintained on raw materials and manufactures not in competition with domestic production. Tariffs bound against increase under the Mexico-United States Reciprocal Trade Agreement of December 1942 were similarly subjected to duty increases in December 1947 on a provisional basis pending re-negotiation of that agreement. Import prohibitions were imposed as "non-essential" commodities in July 1947 and again in June 1949. Import permits are required for certain commodities which compete with the output of domestic industries.

^{1/} For a discussion of the mutual effect of the tax policies of capital-exporting and capital-importing countries, see Survey of Policies Affecting Private Foreign Investment, Document E/1614, 15 February 1950, pages 14-19.

These measures have probably tended to stimulate direct foreign investment in manufacturing though not intended primarily to produce that result. This is believed to be true, for example, of the production of refrigerators, the assembly of which from imported motors and domestically produced cabinets has recently been established. The importation of assembled units, but not exports, is prohibited. Similarly, the manufacture or assembly of washing machines, kitchen appliances, ovens, radios and other durable consumer goods has been undertaken. Some further stimulus has been given to investments, domestic and foreign through exempting favoured enterprises in manufacturing from import duties on raw materials and capital equipment, pursuant to the Law for the Development of Manufacturing Industries.

B. Government participation in the economy

State intervention and control in the period from 1917 to 1940, particularly during the first "six-year plan" from 1934 to 1940, was designed largely to reduce foreign economic influence in the country and to redistribute property rights. Since 1940 official policy has been more concerned with the stimulation of production and promotion of economic development. One reaction to this shift of emphasis has been a renewed interest of private foreign capital in Mexican industry, particularly manufacturing.

The legal basis for the widespread participation of the government in the national economy, is contained in the Law of Monopolies of August 1934 and the Expropriation Law of November 1936. The latter has

/actually been

actually been invoked to much greater practical effect than the former, though the Law of Monopolies does provide the State with almost unlimited powers of intervention, regulation and control in enterprises judged monopolistic.

Monopolies, with certain exceptions, are proscribed by the Constitution. Under the Law, the government is empowered to prosecute in general any action constituting an undue exclusive advantage in favour of one or several specific persons to the detriment of the general public or any social class. Co-operative producers' societies under supervision of the government, which have been an important factor in the marketing of agricultural products, are not affected by the law, nor are enterprises in which the government participates as a shareholder or partner.

The government's authority to control the entry of particular foreign investments, derived from the decree of 27 June 1944, is supplemented by certain powers under the Law of Monopolies to control investment and production generally in the interest of avoiding excessive competition or overproduction. Article 12 of the Law empowers the Government "to regulate the undertaking of new industrial activities in specific fields of production when there is danger that excessive competition may produce a reduction in workers' salaries or damage to the public in general or to a social class", and "to restrict the production of specific commodities, when there is an excess in relation to domestic and foreign demand which may cause a crisis of

/overproduction, to the

overproduction, to the damage of the public in general or some social class".

The Expropriation Law conferred full powers for the exercise of the sovereign power of eminent domain and placed all property within the scope of such power. The notion of public interest is broadly conceived, illustrative motives for expropriation being "the creation or development or conservation of any enterprise operating for the benefit of the people" and "the equal distribution of the wealth accrued or monopolized for the exclusive advantage of one or different persons and bearing prejudice to the people in general or to one class of people in particular". The Constitution and the Law of Expropriation have been the legal basis for the expropriation of investments in agrarian properties, railways and petroleum production.

A central organization in the Mexican Government's programme of stimulating investment is Nacional Financiera, a government-owned development corporation. Since 1941, this agency has been principally an instrument for financing new industrial enterprises, including the negotiation of international loans for this purpose. By the end of 1948 "it had assisted in the financing of 172 industrial enterprises, the most outstanding being 21 factories producing iron and steel and metal products, 18 sugar firms, 14 textile firms, 12 printing firms, 11 cement factories, 11 constructors of public works, 10 communication and transport enterprises, 9 packing and refrigerating enterprises, 6 electricity-generating enterprises, 5 food factories, 4 paper mills,

/etc."

etc."^{1/} The funds of Nacional Financiera are derived from share capital, increased from 20 to 100 million pesos in December 1947, and from sale of bonds and "certificates of participation" which it is pledged to re-purchase at par. Its activities consist of purchasing stocks and bonds of industrial companies and making direct loans to industry. Its assets increased from 18 million pesos at the end of 1940 to 1,052 million pesos at the end of 1948.

C. Control of particular industries

1. Mining

A feature of governmental control over the mining industry that may have adversely affected new investment either by foreigners, who largely control the industry, or by domestic nationals, is the relatively heavy burden of taxation, mentioned above. While foreigners must obtain permission to invest in the industry and must consider themselves as Mexicans in respect to their investments, there is no evidence that these regulations have acted to restrict new investments.

Exploitation of mineral deposits, title to which is vested in the nation, may be effected under concessions granted pursuant to conditions imposed by the Mining Law of 2 August 1930. Operation of the enterprise must be maintained for the concessions to continue in force.

Exploitation concessions are granted for unlimited periods of time.

A Mining Development Commission was created in 1934 to develop the mining industry by direct governmental or co-operative activity and to

^{1/} Carrillo Flores, Antonio, op. cit., page 213.

give financial assistance to small private enterprises, but it participates in the industry only to a small degree.

2. Petroleum extraction

Prior to 1917 property rights to petroleum deposits on private land were vested in the owners of the soil. The Constitution of 1917 abandoned this principle and provided for strict separation of rights to the subsoil from surface rights. This change caused an extended controversy between foreign owners of oil properties and foreign governments on the one hand and the Mexican Government on the other.

The new Constitution challenged the status of subsoil rights acquired by foreigners prior to 1917, affecting 80-90 per cent of total foreign holdings. In 1921, the Mexican Supreme Court held that the constitutional provision was not retroactive. By 1926 legislation was developed providing for the issuance of confirmatory concessions for an unlimited period of time to holders of rights acquired prior to 1917. A period of relative stability in relations between Mexico and the foreign oil companies followed.

Between 1934 and 1936 a number of strikes occurred in the petroleum industry as the result of demands made upon the companies by the workers. In mid-1937 a strike resulted from the failure of the fifteen main oil companies and the workers to agree on the negotiation of a labour contract. The strike was terminated when, under procedures established by the Federal Labour Law, a commission of experts was appointed to study the conflict and submit recommendations. The companies registered their objections to the recommendations, submitted in August 1937, but

the Labour Board affirmed them on 18 December 1937. In December the companies filed a petition in the Supreme Court for a writ of injunction, contending that they were economically unable to carry wage increase and other costs involved in the Board's decision. In March 1938, the Supreme Court denied the petition. The companies still maintained that they were unable to carry the financial burden, and on 18 March the Mexican Government expropriated the properties. The legality of the expropriation decree was affirmed by the Supreme Court in December 1939.

Shortly after expropriation, the President of Mexico stated that compensation would be paid for the properties. The position of the companies was that the action of the government constituted an illegal confiscation since immediate compensation was not paid, and restoration of the properties was therefore required. In March 1939 negotiations were begun on the basis of forming several new corporations in which the expropriated companies would be given a financial interest. These negotiations broke down over the issue of who would control the new enterprises. The Mexican Supreme Court, in a decision of 2 December 1939, upholding the expropriation, ruled that payment could be made within a reasonable time, and that the magnitude of the compensation had to be taken into consideration in determining the length of time during which payment should reasonably be made.

"The United States Government did not question the right of the Mexican Government in the exercise of its sovereign power to expropriate the properties within its jurisdiction. It pointed out, however, to

the Mexican Government, that principles of international law and of equity required payment of compensation representing fair, assured, and effective value to the nationals from whom these properties were taken.^{1/} The two governments agreed in November 1941 that each should appoint an expert to formulate an agreement on the amounts and terms of compensation. The agreement was reached in April 1942 that the value of the properties on the date of expropriation was \$24 million. An agreement was also reached with Anglo-Dutch petroleum interests in 1947 involving payment of \$130 million.

The petroleum industry is now governed by the Petroleum Law of May 1941, which provides that exploration and exploitation of petroleum may be carried on in three ways: (1) by direct government operation; (2) through public petroleum institutions; and (3) through contracts with private individuals or corporations. The persons or organizations with which contracts may be executed are: (1) Mexican nationals; (2) companies entirely constituted by Mexicans; and (3) mixed companies in which the Federal Government holds a majority of the capital stock. In no case can petroleum production be carried on by companies issuing bearer shares. Thus foreign-controlled enterprises cannot be granted concessions directly by the Mexican Government for petroleum exploration and exploitation. In practice, the production and refining of petroleum has been entrusted to a governmental agency, Petróleos Mexicanos ("Pemex"), created in June 1938 to take over the management of the

^{1/} United States House of Representatives, Fuel Investigation, page 124.

expropriated properties.

Regulations established pursuant to the Petroleum Law of 1941, empower Pemex to enter into contracts with other parties for the execution of its operations. This provision has been interpreted by Pemex as permitting it to enter into contracts with foreign as well as domestic companies. Some such contracts have been executed. These include one with a group composed of Edwin W. Pauley, the American Independent Oil Company, and the Signal Oil Company; a reported loan arrangement of \$30 million with the Texas Company; and a contract with the Cities Service Company for the exploration and exploitation of more than one million acres in north-eastern Mexico.^{1/} As regards the first group, the Director General of Pemex announced that his chief task would be the drilling of wells in Tabasco and Veracruz, that drilling costs for productive wells only would be amortized from the proceeds of the sale by Pemex of 50 per cent of the production obtained from the wells drilled, and that between 15 per cent and 18 per cent of the production would be paid as profit and compensation for the risks assumed.^{2/} The life of the contract has been variously reported as twelve and twenty-five years.^{3/} Wells completed are turned over to Pemex for exploitation.

1/ New York Times, 12 March 1949.

2/ New York Times, 7 March 1949 and 25 November 1949.

3/ Ibid., and New York Herald Tribune, 7 March 1949.

/Under these contracts

Under these contracts, managerial control over Mexico's petroleum resources remains with Pemex and foreign companies are subsidiary to, rather than on a par with Pemex. No title or property right to petroleum discovered can be obtained by any company so contracting. It may be observed that certain United States petroleum enterprises have raised the question whether Pemex can legally enter into long-term contracts which entitle foreign companies to a percentage of oil produced from wells drilled by them, and which give the companies a degree of managerial control sufficient to protect their investments in exploration and exploitation, or whether such contracts violate the intent of the Petroleum Law.^{1/}

Pemex apparently considers such private foreign participation as a supplement to rather than a substitute for its own programme of expansion. Accordingly, it presented to members of the Committee on Interstate and Foreign Commerce of the United States House of Representatives visiting Mexico in September 1948 a five-year development plan for 1949-1953 calling for a total capital investment of \$470 million. A request for consideration of a loan by the United States Government of some \$200 million in connexion with this plan was made by Mexico early in 1949, but was later withdrawn upon failure to reach agreement concerning the conditions of the loan.

^{1/} United States House of Representatives, Fuel Investigation, pages 126-127.

Repeated declarations have been made by Mexican officials that Mexico has no intention of changing the legal basis on which its petroleum resources are exploited.^{1/}

3. Electric power

The Federal Electricity Commission, created on 14 August 1937, is charged both with the supervision of the private sector of the industry and with supplying electric energy directly. It now accounts for about 20 per cent of the country's investment in the electric industry. The Commission was created in response to a rapidly growing demand for electric energy in the face of curtailed private investments, resulting from uncertainty regarding the possibility of nationalization.

Concessions for the generation and transmission of electricity may be granted only to Mexicans or Mexican companies pursuant to the Law of the Electric Industry (1938) but foreign investors are not excluded from participating in Mexican companies. Because of the increasing shortage of electric power, the Law was liberalized to the advantage of private companies in 1941 and 1945 as regards the renewal of concessions and disposition of properties at the end of the concession period.

Concessions may be granted for a period up to fifty years, and may be renewed for an additional fifty years. On the termination of a concession, all property may be freely disposed of by the

^{1/} See, for example, interview with Antonio Bermúdez, Director General of Pemex, reported in New York Times, 12 March 1949.

concessionnaire except the hydraulic works, which revert to the government without compensation. The government has the right to acquire the remaining property at the end of a concession at a price fixed by experts nominated by both parties.

Rates are regulated by the government on the basis of a "fair return" to the concessionnaire, calculated on the value of the property at 31 December 1941, or for later investments, at cost in Mexican currency, plus the estimated value of intangibles. The latter may not exceed 15 per cent of the value of physical properties. Rates are fixed so as not to yield a lower return than the maximum nominal rate of interest on government bond issues which has recently been about 6.5 per cent.

In the face of recent rising costs, actual rates of return are reported by the private companies to be between 2 1/2 per cent and 3 per cent because of the time lag between applications for rate adjustments and their approval. Applications for rate adjustments have been filed with the Mexican Government by the private companies with the expectation that prompt relief will be granted.^{1/}

4. Other industries

Foreign insurance and commercial banking companies, although permitted to establish branches upon special authorization, have apparently found the prospects unattractive under legislation in effect since the middle 1930's and, in fact, liquidated most of their

^{1/} See American and Foreign Power Company, Incorporated, Twenty-Fifth Annual Report, 1948, page 11.

investments at that time. The requirements for the investment of the reserves of such enterprises have been regarded as restrictive.

Foreigners are virtually excluded from participating in concessions for the operation of automotive transport services. Captains, owners and officers of merchant ships must be Mexicans. Foreign investment in agricultural enterprises is limited to some degree by regulations establishing the maximum size of such holdings pursuant to the Agrarian Code. Within these limits foreigners may acquire agricultural land, subject to permission of the Ministry of Foreign Relations. Apart from limitations on the size of holdings, the possibility of redistribution of agricultural properties as communal or "ejido" lands also may limit interest in foreign ownership of such properties.

D. Implications of policies

The objective of reducing foreign control of the economy has been achieved in Mexico through acquisition and expropriation of the railways and expropriation of agrarian and petroleum properties.

Limited participation by foreign capital in the further development of these sectors of the economy has been sought through loans by governmental and international agencies and through contractual arrangements with private foreign enterprises, as in the petroleum industry. Foreign control has been allowed to persist in the mining and electric power industries, although their profitability has been affected by taxation and rate-fixing policies.

/The current policies

The current policies of the Mexican Government affecting foreign investment appear to be designed principally to obtain inter-governmental credits to assist in the financing of basic development and to attract private capital into manufacturing.

In manufacturing, generally high levels of profits are enhanced by low taxation, protection against foreign competition and various types of governmental financial assistance. In this sector direct governmental participation is limited and is intended to stimulate rather than replace private investment; regulations governing entry of foreign capital and the employment of Mexican personnel have not been seriously limiting factors; and earnings and other funds derived from investments have been freely transferable.

An authoritative statement of the Mexican attitude toward foreign investment is contained in an official account, issued by the Ministry of Foreign Relations, of that country's participation in the Ninth International Conference of American States, held at Bogotá, Colombia in 1948.^{1/}

This statement points out that Mexico "has clearly been oriented for years toward the creation of juridical, social and economic conditions that will permit private capital - national and foreign -

^{1/} Carrillo Flores, Antonio, "El Problema de las Inversiones Extranjeras en la Conferencia de Bogotá", México en la IX Conferencia Internacional Americana, pages 219-236, en Secretaría de Relaciones Exteriores Departamento de Información para el Extranjero, México, 1948.

to collaborate in the development of the country without fears,^{1/} without injustice, with broad and generous possibilities of legitimate profit".^{1/} Illustrations of the favourable conditions created for investment, continues the statement, are the low level of taxation, including possibilities of tax-exemption, and governmental financial aid for new industrial enterprises.

It was Mexico's position that the Bogotá agreement on foreign investments should guarantee "absolute respect for Mexican⁷ laws and ... institutions and the unrestricted right of the⁷ country to decide freely the function that it may wish to assign to future private foreign investment."^{2/} Subject to its reservation that the principles governing foreign investment agreed upon at Bogotá be subordinated to the Constitution and the Jurisdiction of domestic courts in each country, Mexico subscribed to the principle that private foreign capital should receive equitable, national, and non-discriminatory treatment; and that any expropriation should be accompanied by payment of a fair price in a prompt, adequate and effective manner.

The statement indicates that Mexico recognizes the importance of private foreign investments but, mindful that in the past they have often given rise to difficulties between countries, believes it essential not to give investors the false impression that their

^{1/} Ibid., page 224

^{2/} Ibid., page 225

participation is desired to the degree that more than "national" treatment will be granted to them. Furthermore, "intergovernmental loans for economic development, which, if well oriented, are one of the best positive inheritance bequeathed by the war years, must continue receiving the stimulus to which the fortunate experience of recent years entitles them".^{1/}

The view expressed is that there are broad fields of activity for both private direct investments and intergovernmental credits; each has certain advantages and disadvantages. Private direct investment can offer much larger resources to interested countries than realistically can be hoped for from intergovernmental credits. Furthermore, such investment assumes greater risks and results in less pressure on the balance of payments, since service is not fixed and fluctuates with the general economic conditions of the debtor nations. On the other hand, it is normally much easier to direct funds made available by intergovernmental credits to serve economic development. The major disadvantage ascribed to private direct investment is that it "still aspires in many cases to a special regime of protection that can be the eventual source of political difficulties".^{2/}

1/ Ibid., page 23⁴

2/ Ibid., page 235