

Distr.
RESTRICTED
LC/R.1696
17 July 1997
ENGLISH
ORIGINAL: SPANISH

ECLAC
Economic Commission for Latin America and the Caribbean

INVERSIÓN EXTRANJERA DIRECTA E INTRARREGIONAL EN
AMÉRICA LATINA Y EL CARIBE: UNA PROPUESTA
PARA SU SEGUIMIENTO

**A PROPOSAL FOR MONITORING
INTRAREGIONAL AND FOREIGN DIRECT INVESTMENT IN
LATIN AMERICA AND THE CARIBBEAN***

ENGLISH VERSION OF CHAPTERS I, IV AND V

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I. THE EMERGENCE OF INTRAREGIONAL INVESTMENT

A. INTRODUCTION

The Latin America and Caribbean region is a clear example of a region that is a "net" importer of capital. Among other sources, foreign direct investment (FDI) plays an irreplaceable role. Due to its volume over the last few years and to its particular characteristics, FDI is closely linked to output growth, employment, export dynamics and, thus, to the development strategies that these countries have adopted (ECLAC, 1995b; OECD, 1995).

The main providers of FDI in the region are from a limited group of developed countries, notable among them the great world powers such as the United States, the United Kingdom, France, Japan and Germany, and some tax havens (ECLAC, 1996b).

Nonetheless, over recent years investment currents have started to flow between the countries of Latin America and the Caribbean themselves. Once again, just a few countries stand out as providers and recipients of this new type of investment. Most intraregional investment, in fact, has been carried out between countries like Argentina, Brazil, Chile, Colombia and Mexico, although the number of countries receiving this capital has recently increased.

The importance of the intraregional investment phenomenon lies not just in its recent appearance and its possible future trends, but also in certain of the specific characteristics that it manifests in respect of its composition and the agents participating in it. In essence, the emergence of these investment currents has been clearly perceivable only in the current decade.

Obviously, there were investments between countries in the region in previous decades, but these were carried out in a rather incidental way. They were limited to a few large infrastructure projects shared between countries, such as the Itaipú hydroelectric project, or to investments carried out by branches of multinational companies. In other words, they did not constitute a clear trend, or correspond to concrete integration projects in the field of trade and production.

B. MAIN CONDITIONING FACTORS

The upsurge in intraregional investment can conveniently be analysed in the light of three sets of conditioning factors: i) the general opening up of economies; ii) preferential opening of economies through new integration commitments; and iii) the changing attitude of business in these new circumstances.

1. General opening up of economies

In the first place, it should be stressed that there is a deep-rooted idea in the region that direct investment capital plays a complementary and irreplaceable role alongside domestic savings, due to its ability to bring higher sustained growth to the countries' economies and to raise their competitiveness.

Since the end of the 1980s, a growing number of countries in the region have launched economic liberalization programmes. In terms of policy towards the outside world, these tend to include, alongside greater openness to foreign trade, a range of measures to privatize state enterprises and attract foreign investment. To favour the latter, virtually all restrictions on foreign capital inflows and outflows have been abolished. Furthermore, a growing number of countries in the region have signed bilateral treaties to protect and promote each other's investments.

At the outset, it was mainly the privatization programmes that gave the initial impetus to intraregional investments, like those made by Chilean companies in the electrical energy sector in Argentina. At present, intra-Latin American investment flows are being invigorated again by the privatization programmes underway in Peru and Brazil.

Again, it needs to be borne in mind that some countries in the region have had growing resources available to carry out investment abroad. This phenomenon is explained by the foreign debt reductions achieved, the greater availability of resources from foreign markets, and the increase in domestic savings rates in some countries.

2. The role of the new integration agreements

The first signs that these countries wished to bring about real integration between their economies were observed in the middle of the last decade. The 1986 bilateral integration agreement between Argentina and Brazil seems to mark a shift in the attitude of these countries. The project was crowned in 1991, when the bilateral agreement was subsumed into the Treaty of Asunción, which gave rise to Mercosur.

So-called "new generation" integration agreements have multiplied in the region in the first half of this decade. These are distinguished from those negotiated in past decades by their ambitious targets for trade liberalization between the signatory countries. Most of the agreements signed since the end of the last decade provide for real liberalization of "the essentials" of this trade, often through automatic tax reductions.

The four subregional groupings —Mercosur, the Andean Group, the Central American Common Market and the Caribbean Community— are also working to reconcile their respective common external tariffs, and each of them has become a customs union, although at different stages of completeness. This sudden progress towards integration forms a logical part of the general policy of opening up economies. Both tendencies are mutually complementary in a logical model for structuring relations with the outside world, which is known as open regionalism.

The firm commitment of these countries to opening up both in general and on a preferential basis has meant that, perhaps for the first time, economic agents have become convinced of the potential offered by the regional market. These agents are now treating this market not just as a more and more important one for their exports, but as an attractive location for their investments.

3. The new attitude of business

The way in which the potential of the regional market is being realized can be seen in the following types of business behaviour. In the first place, the new openness of the regional market gives business an incentive to think beyond the classic domestic market/export to big international markets dichotomy, by offering new opportunities in a market which is not only characterized by certain preferences, but where there is great dynamism and relative security of access. In the first instance, businesses will try to place themselves in this new market only by placing certain export lines there.

Then, when the widening of the regional or subregional market is seen to be substantial and lasting, protected by a free trade agreement or customs union, the regional exporter will try to achieve a stable presence within the new structure. When this second course of action leads to investments being made in the destination market, it is known as investment creation. This can range from setting up just a representative office to establishing complete production processes, by way of assembly processes. Furthermore, the creation of a wider market with the characteristics referred to generally gives rise to reordering within this market, with the integration partners tailoring their economic activities —and investments— to the new conditions of competition.

In practice, we can already see heavy concentration of intraregional investments between countries that border one another and/or have close links. This is the case with Chilean investments in Argentina and Peru, the investments by Argentina and Brazil in one another, the Mexican investments in Central America and those carried out between Colombia and Venezuela.

There is also evidence that the greater financial permeability achieved by the region is giving rise, in certain leading countries, to a kind of recycling of resources originating from markets outside the region. These resources are obtained by economic agents in the region and then invested in a third country in the same region. This operation sometimes comes to take the form of a joint venture with the original provider of the capital seeking to enter into association with a Latin American business, to carry out investment in another country in the region. It appears that the specific knowledge that the Latin American business has about a given sector, and the ease with which this business can gain access to the destination market, are the factors leading to this type of triangulation. This seems to have been the case with recent Chilean investments in Peru's fledgling private pension system.

Another aspect of this new phenomenon, it seems, is the appearance, albeit still in embryonic form, of the Latin American transnational company, one with certain behaviour characteristics that set it apart from the large transnationals on the international scene. The firms concerned would appear to be those that have reached a great size in their country of origin and accumulated a substantial amount of knowledge on particular sectors whose output, in many cases, is not tradable. The seems to have been the case with the Latin American companies that have taken part in the privatization processes implemented in the region since the end of the last decade.

C. MONITORING DIFFICULTIES

Despite the growing importance of intraregional investment, there are numerous difficulties involved in tracking FDI accurately and analysing the behaviour of the agents involved. In their eagerness to

liberalize their economies, the countries of the region have been dismantling many of the mechanisms that formerly controlled cross-border capital movements. In some cases, deregulation has gone so far that all requirements to register FDI have been abolished.

In some countries of the region the perception exists that doing away with compulsory registration reduces transaction costs for the foreign investor. Direct investment decisions, however, are made by evaluating long-term profitability, so it is improbable that this type of cost will be of importance in the total (ECLAC, 1995c).

Again, central banks tend to have only a single register for all international capital movements. This register does not provide sector-by-sector details or show which country investments have originated from, and where they are going. The official information, furthermore, tends to underestimate the flows going outwards from these countries, which often elude registration mechanisms.

A more refined accounting system for intraregional capital flows and stocks would not only enable the authorities to see the extent of the process, but would also give them concrete information which could be used if they needed to apply promotional or corrective policies to capital flows going in and out of the economy. It would also give greater insight into the strategies of domestic firms investing abroad, and thus enable support to be given to them in doing this.

Finally, it needs to be recalled that a certain apprehension has arisen among the countries of Latin America in respect of the massive inflows and outflows of speculative capital, as these have made it harder to run exchange policies, and in some cases have made it necessary to implement painful adjustment processes (Williamson, 1995).

IV. DOMESTIC LEGISLATION AND THE FDI REGISTRATION PRACTICES OF CERTAIN COUNTRIES IN THE REGION

A. DOMESTIC LEGISLATION IN THE REGION

1. Basic concepts

The great majority of countries in Latin America and the Caribbean have a special statute or law relating to FDI, and this enables us to identify the basic concepts mentioned in the previous sections and to see how FDI is treated. This makes it feasible to identify the explicit or implicit mechanisms existing in each of them which can be used to carry out registration of flows and stocks of direct investment.

The differences between the legislation of different countries are generally related to the weight of the investment flows arriving from the rest of the world. Thus, the countries which are members of LAIA, which between 1988 and 1995 received around 94% of the FDI flows entering the region, generally have fairly elaborate legislation on foreign investment. The situation is different in the countries of Central America and the Caribbean, which in the same period received the remaining 6% of the total flows entering the region. On the one hand, Central American countries such as Honduras and Belize have general legislation, which does not however address all of the vital aspects referred to in the previous section. Some Caribbean countries, such as the Dominican Republic and Trinidad and Tobago, legislated on the matter only a few years ago (ECLAC, 1995a). Finally, other countries like Barbados, Costa Rica, Guatemala and Panama do not have any specific legislation on foreign investment.

Since legal texts dealing with FDI regulate a number of issues that are outside the scope of this work, and are therefore very long, we have opted to analyze in detail only the legislation of the countries that we consider the most representative of the region in terms of the magnitude of the investment flows received and sent out. This group of countries is comprised of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico, Peru and Venezuela.

The basic concepts in this legislation include definitions of direct investment (or foreign investment), direct investors, direct investment companies and the procedures whereby investment is carried out.

a) Definition of Direct Investment

As has been argued, this concept is vital for recording flows and stocks of FDI, as it enables us to determine exactly what the regulations apply to.

Although broadly speaking the definitions used by the countries analysed agree with the concept of FDI used by the IMF and the OECD, there are certain differences between them as regards the factor that specifically identifies FDI. Some countries, such as Brazil, Chile and Peru, put emphasis on the criterion that FDI consists of transfers of resources originating outside the country and intended for economic or income-generating activities (see table A.1). In this case, the vital factor identifying DI is the origin of the capital provided and its economic objective. Chile, in addition, stands out because the country's provisions include a Contrato de Inversión Extranjera [foreign investment contract]¹³ which gives the relationship greater formality.

Argentina and Mexico stress the involvement of a direct investment "individual" (direct investor) to give the investment its "direct" character. Countries such as Bolivia, Ecuador and Venezuela which are members of the Comunidad Andina [Andean Community] share common regulations worked out under this agreement, and use both concepts (see table A.1 and IDB, 1995).

It should be noted that none of the countries analysed makes any stipulation relating to the permanence of the investment over time, as the IMF and OECD do, to differentiate it from portfolio investment. By contrast, the criterion they consider relevant is the intention of carrying out productive or economic activities.

b) The direct investor

According to the IMF and OECD definition, the status of direct investor is given essentially to those who carry out a direct investment transaction, and who are not residents.

The legislation of all the countries analysed agrees insofar as both physical persons and legal entities to whom the DI capital belongs are considered to be investors (see table A.1). Nonetheless, many countries require that, as well as living abroad, the investor be of foreign nationality, which means that the involvement of non-resident nationals in direct investment activities on the country's territory is not recognized.

There are therefore two sources of discrepancy between the concepts used by the countries in their domestic legislation: these relate to residence and to the nationality of the investor.

Nationality: Among the countries which do not allow non-resident nationals to claim treatment as direct investors are: Brazil, Costa Rica, Ecuador, Mexico and Venezuela (see table A.1). Argentina, Bolivia, Chile, Colombia and Peru, on the other hand, have accepted the recommendations of the IMF and OECD in that they regard non-residents as being entitled to be treated as foreign investors, regardless of their nationality. (see table A.1).

Residence: The IMF Balance of Payments Manual (IMF, 1993) considers persons (physical or legal) remaining within an economy for more than one year as residents. In the legislation of the countries analysed, the period a person is required to stay within the economy for residence to be granted varies between six months (Argentina, Chile, Colombia, Ecuador and Mexico) and two years (Peru). Brazil stipulates one year for this period (LAIA, 1995).

¹³ Signed between the Chilean State and the foreign investor.

Another aspect where differences are found in the legislation of different countries relates to the possibility that the DI individual might be a direct investment company. Some countries incorporate into this exemption the indirect ownership concept described in the previous section. As table A.1 shows, among the countries that include the involvement of a DI company as direct investor in their domestic legislation are: Argentina, Bolivia, Brazil, Colombia and Ecuador. Chile, Costa Rica, Peru and Venezuela treat only non-residents as foreign investors.

c) Direct investment companies

To define a DI company, all the countries except Chile apply a minimum percentage of share or asset ownership to determine whether a company is to be considered a direct investment company and, consequently, to differentiate direct investment from portfolio investment. The percentages required range from 5% in the case of Mexico to 50% in the case of Brazil and the countries of the Comunidad Andina.

Likewise, certain countries, such as the Comunidad Andina countries, use the percentage of shares or assets held to distinguish between domestic companies (with a holding of under 20%), joint ventures (if the holding is more than 20% and less than 50%) and foreign companies (if the holding is over 49%). Argentina distinguishes between domestic and foreign companies and Brazil between "filiales" [branches] (100%) and "subsidiarias" [subsidiaries] (more than 50%), as described in table A.1.

In Chilean legislation, direct investment companies are not defined in terms of the percentage owned in them. Instead, the concept of the company in receipt of DI capital is used as the criterion. Nonetheless, the Chilean Ley de Sociedades Anónimas (S.A.) [public companies law] establishes that a company is a branch of an S.A. (parent company) if this controls more than 50% of its voting capital or of the capital of the branch company, either directly or through a natural or legal person. If these conditions are not met, the company is a sociedad por acciones [joint-stock company] (Central Bank of Chile, 1994).

d) Direct investment capital

As was mentioned in section II, one of the respects in which the countries differ is in their attitude to the composition of direct investment capital, specifically, to whether or not reinvested profits and other DI capital (intra-company debt) are included or not.

The bulk of the legislation reviewed concurred in defining DI capital as consisting of foreign currency or (capital) goods. Argentina, Brazil, Chile, Colombia, Costa Rica and Peru allow for the possibility of including intangible property such as patents, licences, trademarks, technology capable of being capitalized, consultancy and know-how. Other countries such as Bolivia, Ecuador, Mexico and Venezuela do not explicitly refer to this type of capital investment (see table A.1).

All the countries include reinvested profits in their definition of direct investment capital, though in practice not all of them record these.

Intra-company debt, in the form of short or long-term credits, is not always included. Countries such as Bolivia, Costa Rica, Ecuador and Mexico include this type of contribution, and the Chilean definition (in Decree Law 600) includes credits associated with foreign investment. The other countries

analysed —Argentina, Brazil, Colombia, Peru and Venezuela— exclude intra-company debt from direct investment capital. It should be noted that the last time the OECD reviewed its regulations, it excluded short-term intra-company debt from the DI capital category.

All of the legislation (except Colombia's) refers only to capital inflows. That is, the possibility of capital going abroad is not considered.

This makes it very difficult adequately to record investments carried out by these countries abroad. On the one hand, capital leaving these countries in the form of DI is not defined as precisely as DI coming in from abroad. This means that discrepancies may be found between the concepts used by the countries when the information is recorded. For example, it may happen that a bilateral transaction is recorded in one country as direct investment and in the other as portfolio investment.

Again, it is possible for differences to exist within a single country, with different criteria being applied for recording incoming direct investment capital than are used for outgoing capital. This aspect will be analysed in greater detail when the particular cases of certain countries are described (Argentina, Brazil, Chile and Mexico).

As regards the concepts used in domestic legislation, three aspects are particularly notable for their potential to produce major discrepancies when countries are compared and when information within a single country is reconciled: i) the status of the foreign investor; ii) the percentage of shares or assets held and iii) the composition of DI capital.

2. Treatment of foreign investment and policy aspects

Apart from the concepts used in the legislation of the different countries to identify the object of FDI and the agents involved, the ability to record FDI is closely linked to the treatment given to foreign capital and to policy aspects.

Table 3 shows a summary of the policy aspects associated with direct investment in the countries of Latin America and the Caribbean being analysed. Among them are a number of formal controls which, although they are being simplified and/or eliminated, can still be useful for recording FDI. The first important aspect is whether or not there is an exchange control mechanism, as this facilitates the work of keeping records of currency entering and leaving the country. Another instrument that can be useful corresponds to the authorization requirements that might be applied to the purchase of assets (companies or other types of productive unit) in the country, and sectoral restrictions on DI. These are generally applied in sectors considered to be strategic (natural resources, energy, telecommunications, national defence). The last aspect is the tax treatment applied to the profits of DI companies and to remittances of profits abroad, which may involve a need for records.

i) Exchange controls. In relation to the exchange regime, the great majority of the countries have made their exchange controls more flexible, insofar as exchange rates have been unified and flexible exchange rates adopted.

This is the case with Argentina, Bolivia, Brazil, Costa Rica, Mexico, Peru and, recently, Venezuela. In the case of Brazil, there are two exchange markets, one floating and the other free without intervention. Foreign investors have access to the free exchange market. Mexico has an intervention band

but there is freedom of exchange for both nationals and foreigners. Ecuador maintains separate exchange markets, there being a free exchange market for international transactions.

Chile and Colombia maintain certain exchange restrictions. In Chile there are two exchange markets, one formal (commercial banks and authorized exchange houses) and the other informal. In the case of Colombia there is a single exchange market, but foreign currency operations for foreign investments must be channelled through intermediaries or clearing mechanisms (IDB, 1995).

ii) Authorization for FDI. Only in Chile is there a requirement to obtain authorization prior to carrying out FDI, regardless of the sector to which the investment is going. The Foreign Investment Committee¹⁴ is in charge of issuing authorizations and recording and promoting foreign investment.

In Mexico, authorization is required for certain cases. Such authorization must be obtained from the National Foreign Investment Commission in the case of sectors to which access is restricted or limited. Furthermore, the Commission reserves the right to check whether investments comply with regulations on employment, training of workers, technological contribution, contributions in environmental matters, balanced trade and currency generation, to name some of the most important (IDB, 1995).

In the other countries, authorization is only required for sectors which are restricted for foreign investors (see table 3).

iii) Tax treatment. In general, the countries analysed give national treatment (not discriminatory) to direct investment companies, applying the tax regime. Nonetheless, in all cases, with the sole exception of Argentina, there is an additional tax on remittances of profits abroad.

Table 4 shows the tax rates of greatest importance for FDI, these being income tax and the profits remittance tax.

¹⁴ This body is dependent on the Ministry of Economic Affairs.

Table 3

**LATIN AMERICA: SUMMARY OF DOMESTIC LEGISLATION
IN CERTAIN COUNTRIES**

Countries	Status of foreign investor		DI company (minimum shareholding required)			Type of DI capital		
	Foreign	Local	Foreign company (>) %	Joint venture %	Domestic company (<) %	Company capital	Reinvested profits	Intra-company debt
Argentina	NR,R(FC)	NR	49		49	YES	YES	NO
Bolivia	NR(FC,JV)	NR	50	50 and 20	20	YES	YES	YES
Brazil	NR(FC)		100 and 50			YES	YES	NO
Chile	NR	NR				YES	YES	YES
Colombia	NR,R(FC)	NR	50	50 and 20	20	YES	YES	NO
Costa Rica	NR		49			YES	YES	YES
Ecuador	NR,R(FC)		50	50 and 20	50	YES	YES	YES
Mexico	NR,R(FC)		5			YES	YES	YES
Peru	NR	NR	50	50 and 20	20	YES	YES	NO
Venezuela	NR		49	49 and 20	20	YES	YES	NO

Source: ECLAC, Directorio sobre inversión extranjera in América Latina y el Caribe, 1993: marco legal e información estadística (LC/R.1325), Santiago, Chile, 1993; Inter-American Development Bank (IDB), Legislación sobre inversión extranjera en los países del hemisferio, Free Trade Area of the Americas (FTAA), Washington, D.C., 15 November; and domestic legislation.

Notes: R=Residents, NR=Non-residents.
FC=Foreign Company, JV=Joint Venture.

Table 4

**LATIN AMERICA: KEY ASPECTS RELATING TO FOREIGN
INVESTMENT REGISTRATION**

Countries analysed	Exchange Regime a/		Tax Regime b/		Authorization c/		Registration d/		
	EC	FER	ERF	P (%)	R (%)	AS	SS	I	O
Argentina	-	X		30 11 and 30	0		X	-	-
Bolivia	-		X	25	25		X	-	-
Brazil	-		X	25 + 12 30	15		X	X	/
Chile	/		X	15/42	35	X		X	/
Colombia	/	X	X	30	8		X	X	/
Costa Rica	-		X				X	-	-
Ecuador	-	X	X	25	25		X	X	-
Mexico	-		X	34		X		X	-
Peru	-		X				X	X	-
Venezuela	-		X	20 and 30			X	X	/

Source: ECLAC, Directorio sobre inversión extranjera en América Latina y el Caribe, 1993: marco legal e información estadística (LC/R.1325), Santiago, Chile, 1993; Inter-American Development Bank (IDB), Legislación sobre inversión extranjera en los países del hemisferio, Free Trade Area of the Americas (FTAA), Washington, D.C., 15 November; and domestic legislation.

Notes: a/ EC: Exchange control; FER: Fixed exchange rate; ERF: Exchange rate freedom.
b/ P: Profit (earnings) tax; R: Profit remittance tax.
c/ AS: All sectors; SS: Some sectors.
d/ I: Direct investment capital inflows; O: Direct investment capital outflows.
e/ X: Applied; /: Partially applied; -: Not applied.

Income tax rates (which do not discriminate between domestic companies and those formed with FDI) vary between 15% in the case of Chile and 34% in the case of Mexico. In Argentina, there are two types: 30% for sociedades anónimas [public companies] or branches abroad and a progressive rate of from 11% to 30% for limited-liability companies. Brazil has a single rate of 25% and an additional 12% on incomes over and above 780 thousand reais. In the case of Chile, foreign investment can take advantage of a single overall rate of 42%, agreed for a maximum of 20 years.

For profit remittances, the rates declared by the countries analyzed (IDB, 1995) range from 8% for Colombia to 35% for Chile. As was mentioned, Argentina does not apply tax to profit remittances. There is no information available for the other countries in the sample.

iv) Obligation to register. Out of all the countries analyzed, seven keep a register of foreign direct investment. Argentina, Bolivia and Costa Rica do not require registration.

Registration is obligatory only in Chile, since foreign investment carried out under Decree Law 600 requires authorization from the Foreign Investment Committee. Brazil requires registration of incoming capital and reinvestment carried out on Brazilian territory in order for profits to be remitted. The body responsible for registration in that country is the Foreign Capital Supervision and Registry Department (FIRCE) of the Central Bank. Columbia has a register of currency which is to be used for FDI investments, registration being carried out at the Banco de la República [Republic Bank], and investments for which authorization is required are registered by the appropriate Ministry. In Ecuador, registration is carried out by the Central Bank. Foreign investments carried out in Mexico, Peru and Venezuela are registered by special foreign investment bodies. In Mexico and Peru, registration is carried out for the purposes of statistical monitoring and policy review.

The great majority of the countries do not keep a register of direct investments carried out by nationals (resident) abroad. Brazil, Chile, Colombia and Venezuela keep a partial register of these, used for particular types of transaction only and with a low level of detail as regards the destination countries and the sectors and companies involved.

B. PRACTICES FOLLOWED IN ARGENTINA, BRAZIL, CHILE AND MEXICO

In this section, four countries will be analyzed in greater detail. These countries are considered to be the most representative of foreign investment practices in Latin America and the Caribbean, basically because they record the highest levels of capital inflows and outflows. In the analysis, emphasis will be placed on the points dealt with in the previous sections.

1. Argentina

a) Registration practice

Argentina is a special case in Latin America because of the way the country has implemented a drastic and rapid process of economic and financial liberalization and deregulation. The foreign investment regime was liberalized in 1989 by eliminating restrictions and procedures discriminating

against incoming foreign capital (GATT, 1992). Likewise, equality of national treatment was guaranteed for foreign capital and, to complement this, capital outflows were liberalized¹⁵.

Among other measures, performance requirements were abolished (for example, those relating to contribution to the balance of payments) for the great majority of sectors, and the obligation to register was abolished. This course of action meant that the ability to record foreign investment was lost. At present, therefore, the economic authority responsible for promoting and devising investment-related policies (Secretaría de Comercio e Inversiones [secretariat for trade and investment], dependent on the Ministry of Economic Affairs) has no official records. Likewise, there are great difficulties in differentiating DI from other capital flows, and in measuring the scale either of DI in the country or of investments by Argentinean citizens abroad.

Of the monitoring work done, it is worth highlighting the efforts of the Fundación Invertir Argentina [Invest Argentina foundation], a private corporation that keeps a register of investments made in Argentina. In its reports can be found fairly detailed estimates relating to the countries of origin and the sectors of origin and destination for each investment project. What makes it difficult to use this organization as a permanent source of records is that the information is obtained mainly from the specialist press, which often does not cover all transactions and financial movements. Furthermore, the information thus obtained is not necessarily consistent with international definitions.

b) Direct investment trends

The 1982 financial crisis cut short the flow of foreign capital into the economy. After applying several adjustment programmes, the Argentinean authorities succeeded in stabilizing the economy through a programme with neo-liberal leanings, which to a great degree restored the confidence of foreign investors in the country. From 1988 onwards, the inflow of foreign capital accelerated, mainly because of debt funding and privatization programmes (IRELA, 1996).

Between 1988 and 1995, accumulated FDI flows reached US\$ 20,216 million, which made the country the second-largest recipient of capital in the region, after Mexico. The weight of FDI¹⁶ in the economy rose from 1.6% in 1990 to 5.25% in 1993 (see table 1). This has given Argentina the status of a high FDI country in the region. Also notable over the last few years has been the contribution of direct investment to gross fixed capital formation and to the introduction of new technology in certain key sectors (Fundación Invertir Argentina, 1996).

The United States has traditionally supplied up to two thirds of the investment received by Argentina from abroad (63%), whilst the rest has come almost exclusively from the countries of the European Union (with 36% of the total). Over very recent years, however, Latin America has increased its share to some 8%, the leading supplier countries being Chile and Brazil. Thus, in 1995, 70% of the total capital coming into Argentina from the region was Chilean (see table B.4).

¹⁵ The Ley de Inversiones Extranjeras [foreign investment law] was last revised in 1993, when restrictions on both capital inflows and capital outflows were removed.

¹⁶ As a percentage of GDP.

Likewise, of all FDI programmes implemented in Argentina between 1994 and 1995, the United States accounted for 38.9%, Europe for 22.6%, Chile 6.6% and Brazil 1.2% (Fundación Invertir Argentina, 1996). According to the same source, Chile is the third biggest investor in Argentina, after the United States and France. There is no reliable information on Argentinean investment in the rest of the region, although this appears to have been concentrated in Brazil and Chile.

Some of these changes may reflect a fall-off in the flows originating from the traditional centres of direct investment as a result of the Mexican crisis, but even so the importance attained by the region in terms of investment in Argentina is considerable.

During the 1970s, a large proportion of the investment received by Argentina was oriented towards manufacturing, largely due to the incentives provided by import substitution policies. Although manufacturing still represents a very substantial share of the total, especially in respect of the motor and food sectors, some of the new capital flows have been oriented towards "non-traditional" sectors such as power generation, gas and water, telecommunications and oil. This is a result of the privatization programmes implemented by the Argentinean Government, from the end of the 1980s onwards.

2. Brazil

a) Registration practice

Unlike Argentina and Chile, which have radically overhauled their FDI legislation, Brazil has maintained its foreign investment law for more than thirty years, giving priority to "institutional stability".

The 1962 law has been adapted a number of times, but still remains the central axis of regulation on foreign investment and the remittance of profits abroad. Nonetheless, the spirit that inspired this law has changed, and the emphasis is now more on promoting investment than on controlling it (ECLAC, 1993b; Central Bank of Brazil, 1996).

It is still obligatory for foreigners to register investments (and reinvested profits) as a precondition for profits to be remitted abroad. Investments made by Brazilians abroad, however, are only partially registered.

In practice, it is possible to obtain official information on investments made by foreigners in Brazil, and on those carried out by Brazilians abroad, with a high level of detail on both the countries and the economic sectors of origin and destination.

b) Direct investment trends

For many years, Brazil was the main recipient of foreign direct investment capital in Latin America, accounting for more than 50% of flows in the region (IRELA, 1996), these being attracted by the great size of its market and its "inwards" industrialization policies. Due to the economic problems and great economic instability which occurred in the 1980s, however, fresh capital ceased to come in. Then, between 1988 and 1995, Brazil accumulated flows (US\$ 15.6 billion) representing some 15.1%

of the total received by the countries of Latin America and the Caribbean. The country thus moved into third position as a recipient, after Mexico and Argentina.

The trend in direct investment flows into Brazil over recent years has been erratic, growing strongly in some years (1992 and 1994), and falling in others. Nonetheless, the average growth rate for the period 1988-1995 was 18.7%, higher than the Mexican rate and the average for Latin America.

Likewise, Brazil invests more abroad than any other Latin American country. The flows accumulated from 1988 to 1994 amounted to US\$ 4,042 million, representing around 50% of the investment carried out abroad by the countries of Latin America and the Caribbean.

Part of the reason for the erratic FDI results lies in the difficult economic adjustment programme implemented after the 1982 crisis, and in the fact that reforms were initiated later in Brazil than in other countries in the region (Carneiro, 1996). The same reasons explain why there have been no major structural changes in investment flows in respect of their countries of origin and destination sectors, as is the case with Argentina.

The United States has traditionally been one of the main investors in Brazil, representing some 84% of FDI in 1994. In second place are the European countries. Latin America represents a very small percentage of FDI. In 1995, the stock of FDI from Latin America had reached US\$ 541 million, most of it coming from Argentina, Chile and Uruguay.

Investments by Brazil in Latin America amounted to US\$ 505 million¹⁷ most of them going to Argentina and Chile.

During the 1980s, around 75% of the FDI stock was centred on the manufacturing segment (especially on capital and technology-intensive industries, such as the chemical industry, machinery and transport equipment). These sectors continue to attract the most FDI, but recently the share of the services sector has grown significantly (IRELA, 1996).

3. Chile

a) Registration practice

Shortly after carrying out complete liberalization of the capital account at the end of the 1970s, and as a result of the 1982 financial crisis, the authorities found themselves compelled to adopt strict exchange controls once again. Subsequently, it was made obligatory to put down a security deposit proportional to the amount of any credit obtained from abroad,¹⁸ the purpose of this being to avoid the negative effects of excessive volatility in short-term capital.

Decree Law 600 was introduced in 1974, and since then has provided the main legal basis for regulating foreign investment. In essence, it gave flexibility to the mechanisms for capital entering the country and provided non-discriminatory treatment for foreign investors. After a number of amendments,

¹⁷ Stock of FDI.

¹⁸ Reserve requirement for short-term credits.

mainly relating to tax issues, DL 600 provided the basis for the Foreign Investment Committee, the body responsible for authorizing and promoting foreign investment in Chile, to be established in 1990.

Chilean law establishes that all investments carried out under this decree have to be authorized by the Investment Committee. Although authorization is generally given automatically, this legal power has given the authorities the means to keep a complete register of capital flows entering the territory.

As regards investments made by Chilean citizens abroad, the official source of records is Section XII of the Central Bank Compendium of Rules on International Exchange. This has to be used by investors from the country to record transactions carried out by them through the formal exchange market (commercial banks and exchange houses authorized by the Central Bank). Often, however, transactions which are not carried out through the formal exchange market are not recorded on the official register of the Central Bank.

Inflows of direct investment capital, therefore, are recorded punctiliously with details of origin and destination (by country and by economic sector or activity), whilst outflows of direct investment capital are only partially recorded. Furthermore, the latter register does not give an adequate breakdown by origin and destination.

In a similar way to what happens in Argentina, attempts have been made to complete the register of outgoing investments by using unofficial sources, such as the economic press. Nonetheless, large discrepancies have arisen between the information obtained from the press and the records of the Central Bank. At the same time, the various alternative sources differ among themselves. For example, when press information on Chilean investments abroad for the period 1990-1994 was compared with the records of the Central Bank, significant differences were found in the totals given, and in their composition.

This discrepancy appears to be due, in the first place, to the fact that the register kept under Section XII of the Central Bank only includes formal exchange operations (mainly the formal market) in the country. Likewise, some of the investment may be financed by capital from third countries or by profits being reinvested. Again, the press information tends to undervalue certain transactions because reference is often made to investment projects rather than to investments actually implemented. Finally, the capital contribution declared by businesses is probably not calculated under the DI definition used by the Central Bank or that of the IMF.

b) Direct investment trends

Between 1988 and 1995, Chile stood in fourth place among the countries of the region with an accumulated inflow of US\$ 8,400 million, which is equivalent to 8.1% of the total received by the region in this period. Likewise, in Output terms, FDI raised its share from 0.87% in 1990 to 2.8% in 1993.

Although in absolute terms the importance of Chile as a recipient country must be regarded as about average in the context of the region, its experience is notable for the great dynamism achieved in the 1990s, in terms both of capital entering the country from the rest of the world and of capital exported to Latin America.

The FDI carried out in the country experienced sustained and substantial growth during the period 1988-1995, reaching a total of US\$ 8,400 million. On the other hand, flows of capital sent by Chilean

citizens abroad began to attain substantial proportions from 1991 and reached a total of US\$ 1,891 million in 1994 (see table B.2), and US\$ 2,660 by December 1995 (Central Bank figures).

As regards the origin of direct investment flows between 1990 and 1995, changes can be noted in respect of the ranking of countries as the main suppliers of capital to Chile. In 1989 a large proportion of the direct investment entering Chilean territory came from the United States (42.7%), some countries in Europe (25%) and Australia and New Zealand. Between 1990 and 1995, investor markets in Chile diversified, with the share of the United States dropping slightly (40%) and that of Canada increasing (13.4% in 1995). The relative share of Europe likewise fell, while that of "other countries" increased. The Latin America region increased its share of total investment inflows, although this share is still modest. Among the regional suppliers, Argentina and Brazil stand out clearly.

In respect of destination by sector, between 1990 and 1995 the mining sector consolidated its position as the main recipient of capital. Industry and services lost relative share in the total amount of capital channelled through DL 600, although they grew in absolute terms. Some new sectors appeared as recipients of investment, in particular generation and distribution of electrical energy, gas and water (Chile, Foreign Investment Committee, 1996).

As table B.4 reveals, Chile has come to play a leading role in the new investment currents within Latin America. In 1995, it exported to Latin America flows totalling around US\$ 1,670 million¹⁹. These flows are characterized, among other things, by their high concentration in certain countries in the region (Argentina, Peru and Bolivia). Thus, between 1994 and 1995, outflows of Chilean capital to Argentina represented 6.6% of the investment received by that country from the rest of the world. Likewise, Chilean investments in Peru represented around 10.6% of the FDI received by that country from the rest of the world.

The case of Chilean investment in the region is also noteworthy because of the high share attained in certain sectors in the main destination countries, such as Argentina and Peru. Between 1994 and 1995, Chile was Argentinas biggest investor in the electricity sector and the third largest in trade, banking, insurance and entertainment services. Information from the Investment Committee shows that, in the period 1990-1994, Chilean investment in Argentina was concentrated on electrical power generation (42.9%); industry²⁰ (32.1%), trade (12.5%) and financial services, insurance and pension funds (9.5%) (Benavente, 1994).

4. Mexico

a) Registration practice

In the second half of the 1980s, Mexico initiated a process of reform in its economy. This included privatization, economic liberalization in general and a funding plan for external debt.

The process of entering NAFTA likewise helped Mexico move towards greater flexibility in the way the country treated foreign investment.

¹⁹ Approximately 80% of the total invested by Chilean citizens abroad.

²⁰ Mainly Food, chemicals, building materials and metallurgy.

Nonetheless, Mexico still maintains a number of restrictions on foreign involvement in certain sectors. These include hydrocarbons, petrochemicals, satellite communications, electricity, railways, ports, airports, cable television and radio, motor spirit trading and professional services.

In most cases, FDI has to be authorized by the Foreign Investment Commission and then registered at the National Registry of Foreign Investment (RNIE).

The registration procedure does not however enable very detailed information to be obtained. FDI flows are published in aggregate form and geographical breakdowns are given only for the main partner countries, particularly those from the OECD. There is no information on regional investment in Mexico, although this is estimated to be comparatively scanty. There is no register for investment carried out by Mexicans abroad, which makes it difficult to determine the extent of this in the region.

b) Direct investment trends

In the mid-1980s, Mexico took over from Brazil as the region's main recipient of FDI from the rest of the world. Between 1988 and 1995, inflows totalled US\$ 36,209 million, representing 34.9% of total FDI in Latin America and the Caribbean, and around 2.4% of world FDI.

This investment boom in Mexico can be explained in large part by the adjustment measures applied. The renegotiation of Mexican debt under the Brady scheme led to substantial gains in terms of country-risk (UNCTAD, 1993). Likewise, between 1988 and 1994, privatization of some 400 companies attracted a substantial inflow of foreign capital, which was channelled via private residents and by means of direct access by foreign private investors (Trigueros, 1996).

Finally, the entry of Mexico into NAFTA attracted a large quantity of capital, for which the incentive was the prospect of being able to participate in a large free-trade area. By far the greater part of this came from the United States, which contributed 82% of capital flows between 1990 and 1994. Europe lost share in this period by comparison with the 1980s, although European investment increased in absolute terms.

This process was slowed down by the outbreak of the economic crisis at the end of 1994, but this did not result in a lessening of the capital stock, since the large devaluation of the Mexican peso stimulated production of exportable manufactures (cars, chemicals, textiles), which in turn attracted foreign investment (IRELA, 1996). In short, the average annual rate of FDI growth between 1988 and 1985 was 17.6% and FDI increased its share of Output from 1.5% in 1990 to 3.1% in 1993.

There is little information about the trend in outflows of Mexican capital abroad (ECLAC, 1996a). The main partners are the United States once again, followed some way behind by Europe, with even more limited investment in Central America, the Caribbean and the rest of the region (Argentina, Brazil, Chile, Ecuador, Peru and Venezuela). In 1995, as table B.4. shows, the stock of investment originating from these latter countries apparently stood at US\$ 129 million. Sectors with investments abroad include manufacturing (glass, cement and processed foods), television, professional services and financial services. Information on investment by the region in Mexico is equally scanty, but it is known to be limited and to originate mainly from Brazil and Venezuela (IRELA, 1996).

C. CONCLUSIONS

Setting out from all of the analyses given in the previous paragraphs, certain conclusions can be formulated in respect of foreign investment registration in Latin America and the Caribbean:

- a) Recently, FDI has been becoming increasingly important in the region in respect of capital formation, job creation, technology transfer and the strategies used by countries to gain access to international markets for tradable goods. In this context, it would undeniably be of interest to have detailed knowledge about capital inflows and outflows.
- b) The definitions of direct investment used in the legislation of the different countries vary, which makes it difficult for information to be exchanged between countries and for FDI to be recorded adequately.
- c) In addition, the legislation analyzed covers incoming investment, but makes less reference to investment carried out by nationals abroad. In some cases, different bodies within a country are responsible for each type of transaction. It can thus happen that one set of criteria is used for incoming capital investment and another for outgoing investment.
- d) Liberalization of foreign capital rules in the region has made it more difficult to keep adequate records of inflows, in certain cases, and of outflows in the vast majority of cases.
- e) By contrast with what has happened in the major industrialized countries, the authorities have not followed the practice of recording investment by exploring alternative sources of information.
- f) As a result, many of the countries of Latin America and the Caribbean that represent the largest DI totals do not have adequate information on these transactions.
- g) The experience of the industrialized countries and of Latin America and the Caribbean does not suggest that registration requirements discourage foreign investment. Countries notable for their flexibility in the way they treat investment and registration requirements, such as Bolivia, Costa Rica and Peru, do not attract greater flows of FDI capital than other countries with stricter rules, such as Chile and Mexico.
- h) Binding institutional factors, such as integration agreements, can generate mechanisms for exchanging information between member countries.
- i) Intraregional investments still represents a small proportion of the total DI flows entering the region. At the sectoral level, however, they can be very significant, as is exemplified by the investment in the electrical energy and trade sectors in Argentina, the reciprocal investment between Argentina and Brazil in the car sector, and the investments in the food sector in Central America.
- j) Some countries in the region have become significant exporters of capital to their main trading partners in the same region.

V. BASIC REGISTRATION PROPOSAL

A. INTRODUCTION

The balance of payments records those financial transactions with the outside world that have a real component in the economy. As the productive sector is involved, it is very important for these flows to be recorded adequately.

Most countries in the region do calculate these transactions in some way, but there are only a few that adequately record all investments actually implemented and that know the composition of these.

Although FDI is characterized by its greater stability relative to portfolio investment, the experience of the recent past has shown that it too can undergo great contraction at times of crisis. Again, there is a discernible trend towards a weakening of relations with certain regions that have traditionally provided capital, such as Europe and Japan, which suggests that it would be advisable to have an active policy for attracting FDI.

More generally, it would be very useful for the authorities in the countries of the region to have more detailed knowledge about this type of transaction and the final destination of "real" investment, in order for them to be able to devise policy measures to attract foreign investment of a type that furthers gross capital formation, the introduction of new technologies and increased competitiveness for these economies.

In accordance with the development model now prevailing, an effective registration mechanism need not involve unnecessary restrictions on financial transactions within these countries. Again, dispensing altogether with investment registration and regulation does not seem to be the right solution.

Given the observations made in the previous sections, we are led to the conclusion that it is not at present practicable to propose an optimum method for recording direct investment in the region. What is needed, therefore, is to find a balance between the advantages of registration and the measures recently introduced to attract capital from abroad.

The mechanism suggested below would be a first step towards implementing a registration system for the countries in the region. Although far from complete, it has the advantage that it entails using regulatory and legal mechanisms already in existence in each country to generate the required information.

The methodology proposed for securing the necessary minimum of registration runs along the following basic lines:

- i) As a starting point, it is necessary to harmonize the main definitions and criteria for registration;
- ii) Secondly, a vital role in registration work would have to be played by the bodies responsible for managing foreign investment;
- iii) thirdly, the fact that there is no single source supplying all the information means that this has to be obtained from a variety of available sources, so that a great deal of work has to be done to reconcile the different data.
- iv) Last but not least, we do not believe it is viable to set up a system to record only intraregional investment. The extent of this type of international investment is still too limited to justify developing a special system. Information about these flows will have to be obtained by monitoring foreign investment in general.

B. INSTITUTIONS INVOLVED IN FDI

It is traditionally the central banks that have been responsible for producing national accounts, and these are therefore also involved in recording foreign investment and direct investment abroad. They basically have all the technical resources and infrastructure needed to record financial flows, although these do not always cover all the investment going into and out of the country.

As a result, the official bodies responsible for promoting FDI have an essential role to play in collecting supplementary information on FDI. In the region, this function tends to devolve upon subsecretariats for trade and other bodies that are dependent on the respective ministry, such as foreign investment divisions or the so-called foreign investment commissions or committees. Their duties generally include dealing with foreign investments, devising regulations for related issues, carrying out investment promotion activities, authorizing investment when appropriate and keeping records of it.

Without suggesting that central banks should cease to discharge their specific responsibilities, it seems reasonable and practical to propose that the responsibility for carrying out exhaustive registration of foreign direct investment should be shared with, or even delegated to, those specialist bodies. These would also have to be in charge of reconciling the data they obtain from the different sources. This proposal is justified essentially by the fact that these bodies are familiar with all the details of this issue, as it forms the main substance of their day-to-day work.

The information required could be compiled directly by them or obtained from other government or private bodies. Among the official bodies that have relevant information are the ministries of trade and industry, the ministries or subsecretariats that regulate specific or strategic sectors, the bodies that supervise companies and the bodies responsible for taxation.

Cooperation with the private sector must be regarded as vital since important pieces of basic information are to be obtained there. For cooperation to work properly, the authority will need to supply these organizations with guidelines on official and legal FDI concepts, and at the same time secure their confidence. It would also be helpful for the private sector to be made aware of the need to have factual data on investments, in order for policies to be designed to support these. Direct investment companies

and companies investing abroad can provide this information either directly or through trade organizations.²¹

Private banks and financial institutions can supply aggregate information on those DI transactions in foreign currency that they are involved in, or of which they are aware. The research departments of certain large multinational banks have already adopted this practice, and have thus turned into important sources of information on international investment flows.

Trade offices of the foreign service located abroad are in an ideal position to obtain advance information on investment between their country and the host country, provided they have the necessary resources for the task. It is also vital for them to gain the confidence of the private agents involved by means of the operations they carry out on their behalf. They can systematize their knowledge by carrying out periodic surveys among companies placing and receiving investment.

Finally, organizations in the region and the hemisphere such as LAIA, the IDB, the OAS and ECLAC can play a more active role in centralizing the information, carrying out monitoring and conducting the appropriate studies, provided they can obtain the necessary information from the countries.

C. ITEMS TO BE INCLUDED IN BASIC DI REGISTRATION

1. Definitions

As was seen in the previous section, the foreign investment categories used in the domestic legislation of the different countries are a key element for registration. The review carried out reveals differences both within and between countries, and a large proportion of the discrepancies found in existing information may be explained by these differences. Since the largest direct investment flows going into the region come from OECD countries, and these have increasingly adapted their principles to those of the IMF, it is recommended that the basic classifications should be harmonized with these definitions as far as possible.

a) Investor status

The greatest differences were found in the treatment of investors' nationality and residence. As regards nationality, some countries require that, as well as residing in an economy other than the one in which the investment is made, the investor has to be of foreign nationality. The opening up of markets and the globalization of economies is leading to mobility in flows of finance and of the other factors of production. It therefore appears reasonable to adopt the IMF definition whereby, for the investment to be "foreign", the investor must be a non-resident, regardless of his legal status or nationality.

²¹ Nonetheless, private institutions can make a very useful contribution to registration work, as in the case of Fundación Invertir Argentina. A recent projection by this organization (March 1996) covers a range of projects planned for the period 1996-2000. This information can be used by official bodies to consult with the companies identified, either directly or through employers' organizations.

As regards the duration of stay required for residence to be recognized, although the IMF recommendation is for guidance only, it seems reasonable to establish period of one year as a minimum.

Finally, in the recent experience of the region, the increasing importance of so-called indirect investment has been apparent. It therefore seems advisable to establish a mechanism to enable the bodies responsible for registration to detect indirect investments.

b) Investment companies

All the legislation reviewed, with the exception of Chile's, uses a percentage of shares or assets held as the criterion for identifying direct investment companies. Inputs can also be made in the form of tangible or intangible property (patents, licences, know-how) and in other ways (contracts).

As regards the minimum percentage required for a company to be considered a DI one, it seems logical to follow the criterion of a 10% lower limit as recommended by the IMF, which furthermore has been adopted by the great majority of OECD countries. Setting out from this minimum, a distinction needs to be drawn between associate companies (between 10% and 50%), subsidiaries (more than 50%) and branches (100%).

c) Capital provision

In this respect, there are two sources of discrepancy between the countries of Latin America and the Caribbean, arising from their approaches to reinvested profits and so-called "other DI capital", i.e., intra-company debt.

Due to the importance that reinvested profits might assume in the near future, we believe it is appropriate for them to be included in registers.

As regards intra-company debt, it should be noted that the IMF regards this as forming part of DI capital only when it is matched by assets in the direct investment company. This is logical, since credits that do not entail a share in assets can constitute only a financial transfer between the parent company and the branches or subsidiaries. It is therefore considered appropriate to adopt the IMF criterion.

2. Treatment of foreign investment

As regards treatment of foreign investment, four basic components can be distinguished for registration purposes:

a) Foreign currency transactions

A great many of the investments made in the region, and of those made by the countries of the region abroad, involve financial transactions. Freedom of exchange, which is now practised in many countries in the region, makes it harder to detect these transactions. In these cases it would be advisable to examine the possibility of obtaining supplementary information from the exchange operators themselves

(commercial banks and exchange houses). The information can be given without identifying the individual agents involved, so that these institutions can continue to respect the "banking secrecy" of their customers.

b) DI authorization and sectoral restrictions

For registration purposes, the ideal arrangement would be for every foreign investment to have to be notified to the authority in charge of registration. This notification requirement does not constitute a restriction on FDI, provided that authorization is an automatic process and does not involve higher administration and transaction costs.

In the case of countries that have opted to do away with the routine authorization requirement, a "second best" criterion can be used. Among other things, this option entails taking advantage of those situations where certain requirements still exist, such as in the case of sectors regarded as strategic ones. In Argentina, certain requirements exist in respect of investments in mining, energy sectors, telecommunications and transport. In Brazil, they apply to oil, infrastructure, transport and basic chemicals. In Mexico, there are restrictions in the same types of sector, and in respect of manufacturing (petrochemicals, chemicals, cars) and services (construction, television).

c) Tax treatment of DI

It is now common in the region for countries to apply non-discriminatory treatment to investments of different origins, at least as regards income tax. At the same time, however, the vast majority of countries apply a tax charge to remitted or repatriated profits "in excess of the amount invested". These practices enable the existence of FDI to be detected and registration of it completed, following the "second best" logic.

Even in cases where companies do not declare profits and/or do not remit dividends, it is possible to obtain information from the annual declaration for income tax or for payment of indirect taxes such as VAT. Obviously, for tax records to be used in this way, it is necessary for the bodies responsible for taxation to be able adequately to identify DI companies located in the country and companies carrying out investments abroad.

d) Companies law

The companies law that exists in most countries makes it possible to obtain information on the identity of the owners or partners of companies and their country of residence, and on the characteristics of the capital brought in. This information is normally required at the time the company is set up or when income tax declarations are returned.

e) International agreements

International agreements relating to investment are another basic element for recording bilateral transactions. Double taxation agreements include common minimum criteria and definitions, which in

principle could be used to produce a "consolidated" register of transactions between the signatory countries. If subregional integration agreements are extended to investments, harmonization of definitions and registration criteria will likewise be required.

Information can also be obtained from intellectual property legislation. As regional regulations on patents, licences, etc., are completed, it will become easier to incorporate these DI capital contributions officially into investment records.

D. BASIC REGISTRATION MODEL

1. For capital inflows

Since a range of different investment instruments and institutions are involved, it seems advisable for purely financial flows to be separated from real investment projects when registration is carried out. Financial flows should be registered for each investment instrument, including debt funding programmes and the type of capital brought in. The amount of each investment project should be given together with its country of origin and destination sector.

a) Financial flows of direct investment

i) Capital brought in: the total amount of "fresh" capital should be shown, excluding reinvested profits and associated credits (short and long-term).

As has been remarked, registration bodies can detect these flows using official sources (central banks, sectoral institutions, company supervisory bodies, etc.) and the private sector (commercial banks, exchange houses and the companies themselves).

One unofficial source of information is the economic press. The data obtained from this will have to be verified by consulting directly with the companies identified. The opportunity should be taken to obtain further details on transactions, so that records can be compiled that conform to the definitions used by the official bodies.

Privatizations are a special case and a relatively easy one, since bidding is carried out by fiscal bodies that have all the details of the investment commitment entered into.

ii) Reinvested profits: As is the case when capital inputs are recorded, official DI authorization and registration requirements have to exist for this type of investment to be detected. In the first case, information is obtained directly from the record of the operation, as happens in Brazil.

A second source consists of information supplied by the company for tax purposes. Thus in Chile, for example, there is a Ficha Estadística Codificada Uniforme (FECU) [standard codified statistical card] which contains detailed information about the enterprise which has set up as a company.

A third method would be to consult DI companies already registered and/or detected about their reinvestment activities.

iii) Intra-company debt (loans between DI company and parent company): This entry should include debt associated with the investment. Other debt and trade credits should be recorded as "other investment".

Capital received from placing financial assets abroad, such as ADRs, should not be accounted for as DI capital. It will only be considered DI capital in cases where these capital inflows give those providing them some degree of control over the company.

As an example of registration, we have taken DI data for Brazil (see table 5).

Table 5

ACCUMULATED FDI FLOWS IN BRAZIL

(In millions of dollars)

Stock of Direct Investment	1988-1994
Capital input	8,133
Reinvested profits	2,238
Other direct investment capital	2,081
Total direct investment	12,452

Source: ECLAC, on the basis of IMF, Balance of Payments Statistics Yearbook, Washington, D.C., 1995.

It can be seen that around 20% of the direct investment in the period was "financed" with reinvested profits and 16.7% with debt (other capital). This means that, although a large amount of investment took place, a substantial part of this was not "fresh" capital.

b) Direct investment projects

It is of great interest to have a breakdown of the figures for investment projects, as this enables an overview to be obtained of the size of markets and of the origin and destination of real investment in terms of sectors and industries.

Depending on the information available, it would be possible to draw up a preliminary classification of projects on the basis of the reasons for investment. These would include debt funding programmes, privatization programmes, mergers and acquisitions, the setting up of new businesses or plant enlargement.

If this information cannot be obtained from official sources, indirect methods will have to be used. Priority could then be given to projects of greater size and strategic importance for the country. It is common in the region for a large percentage of FDI to originate from just a few markets, so the register could be limited to those²².

Records could also be broken down by countries and sectors of destination. This would have to include:

i) Total amount invested by country of investment origin: in this case the total amount directly invested by the country would be included. In the case of multinational projects, the main participant countries would have to be stated. Ideally, the register should show the amount invested per country broken down by the type of investment instrument.

ii) Total amount invested by sector: the sectoral classification used needs to be one that is consistent with the classification applied to the rest of the country's economic activities, such as an ISIC type classification (Third revision) (ECLAC, 1993b).

iii) Main direct investment companies by sector: this should include a breakdown of companies into branches, subsidiaries or associates, in accordance with the criteria stated earlier. This would enable the company for which the project is intended to be identified, and not just the recipient company²³.

iv) Company in the country of investment origin: this is to identify who is the direct investor, something that can be useful in the case of "crossover" operations in which a country is involved as a recipient while at the same time it is investing in a project in a third country. The first transaction can only be financial, it being the second transaction that constitutes the direct investment.

At the end of each period, the authorities responsible for registration should reconcile the total amounts recorded for financial flows with those recorded for projects. Differences between "flows" and "projects" should be corrected as far as possible. Depending on how trustworthy the data and information sources used are, it may be assumed that the direct investment is receiving non-financial capital inputs when the amount of the financial flows is less than that of the projects.

2. For direct investment carried out abroad

As we explained, there are more difficulties associated with direct investment carried out by nationals (or residents) abroad than with incoming investment.

²² Because of the particular interest being taken in intraregional investment, the main supplier countries in the region should be included.

²³ Some countries in the region, including Brazil, keep a register of both holding type companies and of the companies that are the final recipients of the investment.

a) Financial flows

For registration of outgoing financial flows a similar procedure should be used as for incoming capital, i.e., the type of direct investment capital, capital inputs, reinvested profits and intra-company debt should all be recorded.

i) Capital inputs: these include inputs of domestic capital into the foreign economy. At times there may be discrepancies between the financial flows recorded and the amount of the project "attributed" to nationals abroad. The definition given by the IMF regards only capital brought directly by the resident investor into his economy as DI in that economy. Loans used by the investor to finance part of the investment should not be recorded as direct investment, unless the investor capitalizes this debt in his economy.

If registration is carried out on the basis of exchange operations, only financial inputs will be registered. Records produced using this mechanism, therefore, will not include other types of input, such as tangible and intangible assets, contracts or other types of input that make up a sufficient share for them to be considered as direct investment. In these cases, such collaboration as can be obtained from the private sector is a vital factor.

ii) Reinvested profits: reinvested profits should be recorded as an additional input by the direct investor abroad and should be deducted from receipts for this purpose in the current account (if they were recorded as accrued profits). If accrued profits are shown, this amount can be calculated as the difference between accrued profits and remitted profits.

Since these do not involve a new remittance of capital abroad, it is not practicable to record them on the basis of exchange operations. Alternative sources of information are declarations of income made to the tax authorities and the consolidated balance sheets of companies with direct investments abroad.

iii) Intra-company debt: Only those transactions that involve direct capital outflows from the investor's economy will be detected using exchange operations. Credits obtained through third countries should not be recorded as intra-company debt (other DI capital). It should be noted that some credits, such as trade credits, which do not involve any financial transaction, will not be detected through exchange operations. This information will only be available when it is obtained from income declarations or from information supplied directly to the bodies compiling the records.

b) Investment projects

As in the case of foreign investment, a preliminary breakdown can be carried out by project type. For this it is necessary for companies to state the amount of the project and "the reason for the investment". In cases where projects are partially financed by inputs from third countries, only those flows provided by the resident direct investor will be considered as FDI.

This information can be obtained directly if the investor is obliged to register outgoings in his own economy. If not, it can be obtained from the other sources indicated in the previous paragraphs.

As in the case of registration of incoming FDI, a sample could be put together, consisting of a number of companies belonging to sectors of special interest for the authority.

A second type of breakdown would be by the country of destination of the project, and the sector and company involved:

i) Total amount invested by country of investment destination: this should include total direct investment carried out abroad. If more than one country takes part in the project (for example, joint purchase of an auctioned public sector enterprise), the total amount involved in the project should be shown, along with the share bought by the domestic investor.

ii) Total amount invested by sector: as in the case of foreign investment entering the economy, registration of amounts invested abroad should be carried out using the ISIC (Third revision).

iii) Investor company: if possible, the identity of the company carrying out the investment should be recorded, so that access can be obtained to the information declared by this company in respect of its investments abroad.

iv) Direct investment companies by sector: Depending on the size of the holding acquired with the investment, the destination company should be classified as a branch, subsidiary or associate of the parent company.

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