Foreign Direct Investments in Mexico

Foreign Investments

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Foreign Direct Investments
in Mexico

A. Foreign Direct Investments: Their Value and Character

I. Introduction

II. Foreign Direct Investments by Nationalities
   a. United States' Investments
   b. British Investments
   c. Other Countries

III. Foreign Direct Investments in Main Branches of Mexican Economy
   a. Mining and Smelting
   b. Public Utility Industry
      1) electric
      2) telephone and telegraph
   c. Transportation Industry
      1) railroads
      2) air transport
   d. Petroleum Industry
   e. Manufacturing Industry
      1) iron and steel
      2) others
   f. Agriculture
   g. Banking, Insurance and Trade

IV. Foreign Direct Investments in the Balance of Payments
   a. Foreign Direct Investments and the Balance of Trade
   b. Incomes Earned, Remitted and Reinvested
   c. New Investments and Repatriations of Capital

B. Government Economic Policy and Regulations

I. Nationalization of Natural Resources and the Preference Given to Mexican Citizens as Against Foreigners
   Constitution of 1917

II. Increasing Participation of the Mexican Government in the National Economy
   a. Law of Monopolies of 1934
   b. Expropriation Law of November 25, 1936
      (including detailed statement re expropriation policy as revealed by actions)
   c. Extent of Government Participation in Industry

III. Rights of Foreigners To Do Business
      Minimum capital requirements

IV. Labour Legislation

(continued)
B. Government Economic Policy and Regulations (continued)

V. Taxation

VI. Tariff Structure

VII. Exchange Control

VIII. Special Control Laws
   a. Mining Industry
   b. Electric Power
   c. Banking, Insurance

IX. Development Program and Government Policy toward Foreign Participation
Summary

I. Value and Character of Foreign Direct Investments in Mexico

Foreign direct investments in Mexico have been closely conditioned by the political situation. They stand around 575 million dollars, which, as a result of the Government's attitude, is far below the 1914 level.(although there has been a slight increase since 1940). The greater part of these holdings are controlled by the United States (about 51 per cent), Great Britain (about 22 per cent), France (about 6 per cent), Belgium and Sweden. Foreign capital is mainly invested in probable order of importance, in public utilities, mining, manufacturing and trade. The petroleum investments, which had been very important, were expropriated in 1938 by the Mexican Government.

Very roughly, foreign capital controls more than 80 per cent of the mining industry, 75 per cent of the electric power and light facilities, the major part of the telephone system, 17 per cent of the railways, most of the airlines, and 20 per cent of the iron and steel industry. Foreigners also have interests in almost all branches of the manufacturing field, the most important field for those foreign investments being made at the present time. Foreign interests seem predominant in the chemical, pharmaceutical, tobacco-products, automobile and rubber industries. The profits made by foreign companies are very unequal; they are low in the public utility and mining fields, but high in the trade and manufacturing fields where they have averaged 20 per cent yearly during the recent period. However, they do not seem to be higher than in Latin America generally.

The part of foreign enterprise in the foreign trade of Mexico is still important but has declined rapidly during the last ten years. Because new investments in Mexico are small, payments of income from previously established interests considerably exceed the capital inflows.

II. Government Economic Policy and Regulations Affecting Foreign Enterprises in Mexico

Prior to the Revolution of 1911 there was, in general, no discrimination against foreign enterprises. Since that period Government policy has developed on nationalistic and socialistic lines. The Constitution of 1917 emphasized the former by nationalizing the subsurface resources, by specifying for the nation the right to control and limit private property in the state interest, and by limiting to Mexicans and Mexican companies the right to acquire lands, waters and mining concessions. The socialistic trend manifested itself mainly during the Cardenas Administration (1933-40), particularly through increasing participation by the Mexican Government in the national economy. For example, government-controlled enterprises were created or existing enterprises were nationalized on the basis of the Law of Expropriation of 1936. This law gave the Government very extensive powers of expropriation while limiting the right of the expropriated owners to indemnity. The main controversy arose over the expropriation of the foreign oil companies in 1938. Also, the Government has practiced a policy of large-scale intervention and regulation in the economic field for political, social or economic reasons. Labour legislation has been particularly important in the life of Mexico during the last thirty years and is mainly embodied in the Labour Code of 1931 which gave extensive rights to the unions.
The general right of foreigners to do business has been regulated by an executive decree of June 27, 1944. By this decree all foreigners or foreign companies must obtain special permission from the Mexican Government to carry on a business in Mexico except a commercial one. This permission may be, but is not required to be, conditioned by the requirement that nationals participate in the capital stock to an extent of at least 51 per cent of the total. However, this law does not seem to have been applied in a restrictive manner.

Taxation is light in Mexico, except in the mining industry. Tax exemptions are readily granted for certain industries in accordance with the provisions of the law. Import duties were complemented in 1947 by an import license system in order to reduce imports of luxury items. In November 1947 a system of "ad valorem" duties on exports replaced the "afaro" tax established in 1938. The new export duties aim at increasing certain categories of Mexican exports, mainly textiles. Mexico does not curtail or restrict in any way the transfer of funds out of the country.

The Mexican Government has often stressed since 1940 its favorable attitude towards private enterprise and its desire to see foreign capital invested in Mexico for productive purposes, and in larger quantities than heretofore. During this period, there have been no major cases of expropriation although the retention of full power is often stated as the official position. However, there has been no slackening in the extension of government regulation in the economic field, including government-sponsored development plans. Sizeable investments have been made by American manufacturing and commercial companies during the last few years which seem to indicate that the assurances of the Mexican Government on the subject have had some effect. Even more substantial investments would probably follow the achievement of mutually satisfactory conditions for the development of the raw material resources of Mexico by private foreign capital.
A. Foreign Direct Investments: Their Value and Character

I. Introduction

The liberation of Mexico from Spain in 1821 opened the door to investors from other countries who took a predominant part in the early expansion of the Mexican mining industry throughout the 19th century. However, foreign capital entered Mexico in substantial amounts only after the installation of the Diaz Regime (1877-1911) which established, probably for the first time in Mexican history, stable political conditions. By 1903 foreign-owned investments were estimated at one-fifth of the wealth of Mexico and, by the time of the Revolution of 1911, this proportion had increased to about 60 per cent. 1/ Foreigners controlled at that time most of the mines, the petroleum industry, the principal electric power plants, a large part of the railway mileage, several of the principal banks, numerous manufacturing and commercial establishments, and about one-fifth of the privately-owned lands in the Republic. 2/

The Revolution of 1911, which was partly due to nationalistic concern caused by the tremendous influence of foreigners, marks the turning point in the development of foreign investments in Mexico. Since the fall of the Diaz Regime, successive governments have followed a "closed door" policy and Mexico has ceased to be a centre of attraction for European and American capital. In spite of a very large extension of foreign investments throughout the world during the 'twenties, foreign capital invested in Mexico increased by very little from 1911 to 1920, and shrank very rapidly after that date as a result of the Government's policies, including the expropriation of many foreign interests.

Wartime shortages and the inauguration of General Avila Camacho on December 1, 1940 centered the attention of the Mexican Government on objectives of economic development. Investment of foreign capital has again been encouraged, although under certain conditions. As a result of this new policy, a sizeable amount of American capital and some European "refugee" money have been directed into Mexico during recent years.

There are no accurate estimates of the total value of all foreign direct investments in Mexico with the exception of the American holdings. A figure of U.S. $570 to 600 million may be taken as a rough estimate of their magnitude. It should be noted that this figure represents approximately 50 per cent of the value of these same investments in 1930 and is far below the 1914 level.

II. Foreign Direct Investments by Nationalities of Investors

Table I shows the distribution of foreign direct investments in Mexico by nationalities of investors as of 1943.

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1/ Senior, Clarence, *World Economics*, March-June 1945, p. 68.

Table 1. Foreign Direct Investments in Mexico
(in millions of U.S. dollars)

<table>
<thead>
<tr>
<th>Investor</th>
<th>Direct Investments in Mexico</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td>267</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>125</td>
</tr>
<tr>
<td>France</td>
<td>30-37</td>
</tr>
<tr>
<td>Sweden</td>
<td>23</td>
</tr>
<tr>
<td>Canada</td>
<td>27</td>
</tr>
<tr>
<td>Spain</td>
<td>25</td>
</tr>
<tr>
<td>Belgium</td>
<td>20</td>
</tr>
<tr>
<td>Netherlands</td>
<td>19</td>
</tr>
</tbody>
</table>

Source: The U.S. figure is from the Treasury Department's Census of American-owned Assets in Foreign Countries and relates to May 31, 1943. The other estimates are based on various sources and relate to around 1940.

United States' Direct Investments. It has been estimated that in 1911 the United States alone owned 78 per cent of the mines, 72 per cent of the smelters, 58 per cent of the oil and 68 per cent of the natural rubber industry. At this date Mexico was the second most important area for United States' investments, the first being Canada. In 1943 it had become the eighth, coming after Canada, Cuba, the United Kingdom, Germany, Argentina, Venezuela and Chile. The book value of United States' direct investments in Mexico, at different dates, as compared with the rest of Latin America and the world, shows as follows:

Table 2. U.S. Direct Investments
(in millions of U.S. dollars)

<table>
<thead>
<tr>
<th>Year</th>
<th>(1) Mexico</th>
<th>(2) Latin America</th>
<th>(3) World</th>
<th>Column (1) as per cent of Column (2)</th>
<th>Column (1) as per cent of Column (3)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1900</td>
<td>185</td>
<td>250</td>
<td>500</td>
<td>63.7</td>
<td>37.0</td>
</tr>
<tr>
<td>1914</td>
<td>587</td>
<td>1,280</td>
<td>2,652</td>
<td>45.8</td>
<td>22.1</td>
</tr>
<tr>
<td>1929</td>
<td>683</td>
<td>5,519</td>
<td>7,528</td>
<td>19.4</td>
<td>9.1</td>
</tr>
<tr>
<td>1936</td>
<td>479</td>
<td>2,847</td>
<td>6,690</td>
<td>16.8</td>
<td>7.2</td>
</tr>
<tr>
<td>1940</td>
<td>358</td>
<td>2,771</td>
<td>7,000</td>
<td>12.9</td>
<td>5.1</td>
</tr>
<tr>
<td>1943</td>
<td>287</td>
<td>2,813</td>
<td>7,365</td>
<td>10.1</td>
<td>3.9</td>
</tr>
</tbody>
</table>

Sources: for 1900 — from American National Indebtedness by Nathaniel F. Bacon, Yale Review, November 1900, p. 265 (continued on next page)

3/ Senior, Clarence, op. cit.
Sources (continued from previous page):
for 1914 - from America's Stake in International Investments by Lewis, Cleona, the Brookings Institution, p. 606
Series Nos. 1 and 20, respectively
for 1943 - Census of American-owned Assets in Foreign Countries,
U.S. Treasury Department, 1943.

Since 1943, the date of the last census of American-owned foreign assets, there has been, almost certainly, an increase in the assets held in Mexico. It is impossible to give the exact figure of the annual outflow of American capital into Mexico; however, estimates range from between 4 to 10 million dollars a year and 25 million dollars a year. At the present time, the total amount of American direct investments probably stands around 300 million dollars.

The distribution of United States' direct investments by industrial groups, as shown in Table 3, changed widely during the period 1914-1943, mainly as a result of the Mexican Government's economic policy.

Table 3. U.S. Direct Investments in Mexico by Industrial Groups

<table>
<thead>
<tr>
<th>Year</th>
<th>Manufacturing</th>
<th>Mining</th>
<th>Petroleum</th>
<th>Public Utilities</th>
<th>Agriculture</th>
<th>Trade and Finance</th>
<th>Misc.</th>
<th>Non-Profit</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1912</td>
<td>-</td>
<td>-</td>
<td>15</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>537</td>
</tr>
<tr>
<td>1929</td>
<td>6</td>
<td>230</td>
<td>120</td>
<td>164</td>
<td>59</td>
<td>9</td>
<td>8</td>
<td>-</td>
<td>663</td>
</tr>
<tr>
<td>1936</td>
<td>8</td>
<td>213</td>
<td>69</td>
<td>143</td>
<td>17</td>
<td>11</td>
<td>13</td>
<td>-</td>
<td>479</td>
</tr>
<tr>
<td>1940</td>
<td>10</td>
<td>168</td>
<td>42</td>
<td>116</td>
<td>10</td>
<td>7</td>
<td>3</td>
<td>-</td>
<td>358</td>
</tr>
<tr>
<td>1943</td>
<td>22</td>
<td>108</td>
<td>5</td>
<td>106</td>
<td>14</td>
<td>23</td>
<td>8</td>
<td>1</td>
<td>287</td>
</tr>
</tbody>
</table>

Percent Distribution

<table>
<thead>
<tr>
<th>Year</th>
<th>Manufacturing</th>
<th>Mining</th>
<th>Petroleum</th>
<th>Public Utilities</th>
<th>Agriculture</th>
<th>Trade and Finance</th>
<th>Misc.</th>
<th>Non-Profit</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1929</td>
<td>0.9</td>
<td>33.7</td>
<td>22.0</td>
<td>24.0</td>
<td>8.6</td>
<td>1.3</td>
<td>1.2</td>
<td>-</td>
<td>100.0</td>
</tr>
<tr>
<td>1936</td>
<td>1.7</td>
<td>44.6</td>
<td>14.4</td>
<td>39.8</td>
<td>3.6</td>
<td>2.2</td>
<td>2.7</td>
<td>-</td>
<td>100.0</td>
</tr>
<tr>
<td>1940</td>
<td>2.9</td>
<td>47.0</td>
<td>11.7</td>
<td>32.5</td>
<td>2.9</td>
<td>2.0</td>
<td>1.0</td>
<td>-</td>
<td>100.0</td>
</tr>
<tr>
<td>1943</td>
<td>7.8</td>
<td>37.5</td>
<td>1.7</td>
<td>36.8</td>
<td>4.9</td>
<td>8.0</td>
<td>2.9</td>
<td>4</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Source: United States Department of Commerce and Treasury Department (see Table 2).

Note: Public utilities in this table include transportation enterprises.

Since 1943 the major part of new American investments has been in the manufacturing field, the importance of which is rapidly growing. Slight

4/ U.S. Department of Commerce
differences in some of the estimates are due to differences in the methods of collecting the basic data.

The value of American controlling interests in Mexican enterprises by type of organization, as of May 31, 1943, was: (in millions of U.S. dollars)

<table>
<thead>
<tr>
<th>Corporation</th>
<th>Branch</th>
<th>Other</th>
<th>Non-profit</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>165.3</td>
<td>118.3</td>
<td>2.8</td>
<td>1.0</td>
<td>287.3</td>
</tr>
</tbody>
</table>

Branches represented 41 per cent of the total investments in Mexico as compared with 45 per cent for the total of U.S. foreign investments in Latin America. American branch factories did not become important until after the first World War I and are of two main types: a) those that were part of a larger American organization, and b) those that comprised all of the assets of some American company organized solely for the purpose of operating abroad.

Out of a total of U.S. §287 million of U.S. direct investments in Mexico, American corporations owned 236 million, individuals 19 million and estates or trusts 32 million.

**British Direct Investments.** British investments started as early as 1821. In the first half-century of Mexican independence they were larger than any other foreign group and increased greatly during the Díaz Regime and World War I. British capital was mainly invested in petroleum and railways; also in trade and finance, real estate, public utilities and mining; and more recently in manufacturing. The nationalization of the railways (1937), of the oil companies (1938) and the sale of different assets during World War II have sharply reduced the value of the British-controlled enterprises. The South American Journal 9 gives the following estimates:

**Table 4. British Direct Investments in Mexico**
(excluding all railway investments)

<table>
<thead>
<tr>
<th>(in thousands of £ sterling)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1913</td>
</tr>
<tr>
<td>1924</td>
</tr>
<tr>
<td>1929</td>
</tr>
<tr>
<td>1939</td>
</tr>
<tr>
<td>1946</td>
</tr>
<tr>
<td>1947</td>
</tr>
</tbody>
</table>

**Other Direct Investments.** The French were active soon after Mexican independence was won. Typical of them were the "Parclonettes" (Frenchmen from the small town of Barcelonnette) who gained control of an important retail trade in the large cities and became manufacturers, chiefly in the textile and cigarette fields.

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7/ Wythe, George, Industry in Latin America, p. 29.
8/ South American Journal, April 10, 1948. The estimates of the Journal do not exactly correspond to the notion of "direct investment"; they constitute, however, the closest estimates available.
9/ Wythe, George, op. cit., p. 289
Later Spring capital was attracted and in 1900 the "Societe Financiere pour l'Industrie au Mexique S.A." was founded at Geneva, in collaboration with French capital. This society promoted investments in the leading cigarette factory, the leading brewery, the principal paper factory and various other enterprises. 10

Spanish investments are prominent in the cotton textile industry, while Swedish, Belgian and Canadian investments are represented by large public utility companies and started only with the 20th century.

III. Foreign Direct Investments in the Main Branches of the Mexican Economy

Mining and Smelting Industry. The bulk of Mexican mining and smelting industries is in the hands of foreign concerns. These foreign concerns are 95 per cent American, 3 per cent British and 2 per cent French. 11 In 1941 a survey of the mining industry showed that all of the sixteen companies producing more than 10,000 tons a month were owned by American interests. 12 In 1947 these sixteen big companies accounted for more than 80 per cent of the total mining production of Mexico. 13 The main American companies operating in Mexico are the American Smelting and Refining Co. (which operates in Mexico the world's largest silver mine), and the American Metal Company and the Anaconda Copper Mining Company (which owns the largest copper mine in Mexico).

In 1939 the British controlled twelve mining companies of minor importance. 14

Public Utility Industry. The sources of capital invested in electric power and light facilities (as differentiated from private facilities) are reported by the Federal Electricity Commission, as of 1947, at:

<table>
<thead>
<tr>
<th>Company</th>
<th>Investment (million U.S. $)</th>
<th>Per Cent</th>
<th>Source of the Capital</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mex. Light &amp; Power Co. and subsidiaries</td>
<td>91.6</td>
<td>43</td>
<td>Incorporated in Canada. Owned by Sofina, a Belgian company.</td>
</tr>
<tr>
<td>Am. &amp; Foreign Power Co. and subsidiaries</td>
<td>60.1</td>
<td>28</td>
<td>United States</td>
</tr>
<tr>
<td>Monterrey Ry. Ltd. &amp; Power</td>
<td>7.8</td>
<td>4</td>
<td>Canada</td>
</tr>
<tr>
<td>Total Foreign</td>
<td>159.5</td>
<td>75</td>
<td></td>
</tr>
<tr>
<td>Total Mexican</td>
<td>51.5</td>
<td>25</td>
<td></td>
</tr>
</tbody>
</table>

10/ Wythe, George, op. cit., p. 269
11/ Mining and Manufacturing Industries in Mexico, p. 12 (U.S. Tariff Comm'n)
12/ Hughlett, Lloyd J., Industrialization of Latin America, p. 252.
13/ Respuestas al cuestionario del Banco internacional Seccion quinta, p. 15
15/ Mexico en Cifras (Direccion general de estadistica), p. 13.
16/ The Outlook for Investments in Foreign Countries, p. 61 (Standard & Poor's Corporation).
pesos, approximately U.S. $2,000,000 23/ and in 1946 of the British-owned Mexican Rys. Ltd., representing about 3 per cent of the country’s mileage 24/ (sold for $2,800,000 pesos 25/). One departure, however, from the trend toward nationalization has been the sale by the Government in January, 1946 of the Mexican Northwestern Railway to a syndicate of Mexican and United States investors.

At the present time the Mexican Government operates roughly 20 per cent of the total railway mileage, United States interests 16 per cent (mainly through the Southern Pacific R.R. Co. of Mexico, a subsidiary of the United States company of the same name) and British interests 1 per cent. The rest of the lines were controlled by Mexican private interests or joint United States, British and French interests.

There is a strong element of United States capital in most of the internal Mexican air companies which are closely associated with the principal United States lines. Indeed it is doubtful if more than two of the internal companies are wholly Mexican-owned. 26/

Six companies (three of United States interests, two Mexican and one Honduran) are engaged in international airline service to Mexico.

**Petroleum Industry.** Heavy foreign investments in the oil industry during the period 1905-1920 had brought Mexico, in the early 20’s, to the position of second oil producer in the world. However, the Constitution of 1917 challenged the foreign interests by providing for the nationalization of subsoil resources. In the following years a succession of Government measures, plus the intrusion of salt waters into the wells, induced many of these companies to step further expansion in Mexico and even to transfer their Mexican investments elsewhere. Production fell from 193 million barrels in 1921 to 47 million barrels in 1937, the last year of private oil industry in Mexico.

The total value of foreign oil investments in 1937 varies widely according to the sources consulted. American interests were estimated from U.S. $42 million 27/ and 69 million 28/ to 200 million 29/; the Anglo-Dutch interests (represented by the Mexican Eagle Oil Co., a subsidiary of the Royal Dutch Shell group) were valued from U.S. $49 million to U.S. $250 million 30/ On the eve of expropriation, foreign interests controlled 97 per cent of the national production, the largest producer being the Mexican Eagle Oil Co.

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23/ Mining and Manufacturing Industries in Mexico, U.S. Tariff Comm’n, p. 24
24/ Moody’s Government, 1943, p. 1858
25/ The Railways of Mexico, U.S. Dept. of Commerce, p. 3.
26/ Mexico, Department of Overseas Trade, London, 1945, p. 12.
27/ Mexican Industrial Census, 1935 (from Mexico en Cifras op. cit.)
28/ U.S. Department of Commerce estimations.
29/ Estimations by the American companies in 1938.
30/ Estimations by the Mexican Eagle Oil Co.
Manufacturing Industry. The Mexican manufacturing industry has grown very rapidly, mainly during the last decade, as a result of the war boom and of the governmental policy of industrialization of the country. During this period Mexican capital, both government and private, entered heavily, probably for the first time, into the manufacturing field; Mexican private capital previously had preferred real estate investments. An example of the rapid growth of Mexican industrial capital is given by the town of Monterrey where the most important plants are predominantly Mexican in ownership and control. 21/ This rapid expansion of the manufacturing industry through Mexican capital prevents the giving of exact figures on the present share of foreign capital in this field. Moreover, descendants of foreigners are very often considered by the official census as being still aliens although they live in Mexico because of the declaration of birth at a foreign consulate. In reality they have double nationality and should be considered as Mexicans for the purpose of this study. This is particularly true of the French and Spanish interests in the trade and manufacturing fields where cotton or food industries are often owned by "foreign" families who settled in Mexico three or four generations ago.

Foreign investments are comparatively small in the iron and steel industry. In 1935 approximately 30 per cent of the production came from Mexican-owned enterprises, the remaining 20 per cent coming from U.S.-owned factories. 22/ Since that date, the largest steel blast furnaces of Mexico went into operation on June 2, 1944, and the cost of these plants (10,6 million U.S. dollars) was financed by Mexican capital. However, a New York financial group bought an interest in 1941 in "La Consolidada S.A.", which is the second largest steel mill in Mexico. 23/

According to the Mexican Industrial Census of 1940, the textile industry accounts for 26 per cent of the total production of the manufacturing industries. It is the oldest and most important. In 1935-38 it was estimated that 39 per cent of the production of cotton yarn and cloth (which alone represents 15 to 20 per cent of the total industrial production in Mexico 24/) came from factories controlled by Spanish capital, 37 per cent from those controlled by French capital and 19 per cent from those controlled by Mexican capital. 25/ Spanish, American and English interests were also important in the manufacture of twine, cordage, etc. cetera. 26/

The rayon industry has expanded notably since about 1925. The Galleses Corporation of America controls two large artificial silk plants, one of which is still under construction. 27/

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21/ Wythe, op. cit., p. 292
22/ Mexico en Cifras, op. cit., p. 13
23/ Standard & Poor's, Outlook for Investments in Foreign Countries, 1943.
26/ Wythe, op. cit., p. 296
27/ U.S. Embassy in Mexico, Report No. 4108.
The food products and beverage industry is largely Mexican-owned and accounts for 25 or 30 per cent of the total industrial production. However, foreign interests are sizeable in the grain milling industry which in 1935 was 26 per cent Spanish-controlled, 28/ the rest being entirely Mexican-owned. Spanish interests also control 25 per cent of the brewery production against 65 per cent of Mexican capital. 29/ A large brewery, the Cerveceria Moctezuma, was established by French interests.

In 1935 U.S. capital controlled 35 per cent of the sugar production but since that date they have been sold, for the most part, to Mexican interests 40/ which own practically all the sugar mills.

British and U.S. interests are engaged in the canning and preserving industry.

Foreign interests are prominent in the tobacco products industry. United States and British interests in 1935 controlled 68 per cent of the production, French interests 15 per cent and Mexican interests 12 per cent. 47/ The factories of the British-American Tobacco Company supply more than half the cigarettes consumed in Mexico. 48/

In 1935 the soap industry was 71 per cent Mexican-controlled, 21 per cent U.S.-controlled, the rest being predominantly British-controlled. 49/

American interests have invested heavily in the Mexican chemical industry during the last fifteen years and the U.S. chemical industry plays an important role in this field through its capital and technicians. 40/

German influence was very strong before 1939 in the manufacture and sale of pharmaceutical products in Mexico. However, during the war the large German laboratories of Bayer, Schering and Merck and the Italian firm of Carlo Erba were taken over by the Mexican Government. Many of these were sold to private interests through competitive bidding. 45/ Nearly all the main U.S. pharmaceutical companies have expanded largely in Mexico and probably account for the major part of the production. A large French laboratory is A. Rueff y Cia. Three other secondary laboratories are of French origin. 46/

48/ Mexico en Cifras, op. cit., p. 13
49/ Mexico en Cifras, op. cit., p. 13
40/ Hughlett, Lloyd, op. cit., p. 396
13/ Mexico en Cifras, op. cit., p. 13
40/ Wythe, op. cit., p. 291
43/ Mexico en Cifras, op. cit., p. 13
44/ Hughlett, Lloyd, op. cit., p. 101
45/ Hughlett, Lloyd, op. cit., p. 310-11
46/ Kimber, Albert W., Latin American Industrialization, 1946, p. 29
American interests are predominant in the automobile and rubber industry. Ford opened an assembly plant in Mexico in 1926 and the General Motors in 1936; others since that date. Four of the five tire-making companies were subsidiaries of American companies in 1940.

Although started by Spanish interests the paper industry is now almost entirely Mexican-owned; the only two earthenware companies are foreign-controlled, one being German-Mexican and the other French-Mexican; British interests started the cement industry and are still operating some plants in this field; European capital is behind several leather organizations, while Canadian and U.S. investors run one large tannery; American interests are leading in the soft-drink, electric equipment, home appliance and celluloid industries. American capital was participating in more than half of the more important manufacturing plants under construction on June 30, 1946 or completed and placed in operation within the year ended on that date.

Agriculture. It has been estimated that, before the Revolution of 1911, one-fifth of the privately-owned land in Mexico was in foreign hands, mainly British and American. These foreign properties covered often more than one million acres each (in 1935 the Hearst estate alone was reported to own about 1.6 million acres of Mexican land valued at 12 million dollars). These different estates were mainly guayule (rubber) estates, which turned to agriculture after World War I, or chicory companies' estates. Some cattle-raising enterprises still exist in Northern Mexico.

After the Constitution of 1917, a gradual expropriation of foreign estates took place, mainly during the period 1934–40. This expropriation was, however, directed against large estates more than against foreign estates as such. The matter of compensation has been the subject of many controversies and of diplomatic correspondence between the Mexican and American Governments. Partial compensation has been made from time to time. Until 1931 bonds were given to expropriated landowners but no interest was paid on them after 1930. The first settlement, for payment of $44,020,114 U.S. dollars, was reached in 1934. The last payment was duly made in 1945. In November 1941 another settlement was reached between the Mexican Government and the U.S. Government by which Mexico was to pay U.S. $40,000,000 in settlement of certain property claims (mainly agricultural property) of citizens of the United States. This sum is to be liquidated over a period of years by the annual payment by Mexico of not less than 2,500,000. Payments have been duly made and the balance remaining to be paid amounts to $19,000,000.

In 1939 the British controlled five real estate companies. 54/

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47/ Hughlett, op. cit., p. 136
48/ Whitha, op. cit., p. 306
49/ Hughlett, op. cit., p. 63
50/ Hughlett, op. cit., p. 168
51/ Kimber, Albert, op. cit., p. 33
52/ Cleman, Lewis, op. cit.
53/ Department of State Press Release, November 19, 1947
Banking, Insurance and Trade. Foreign-owned banks have practically disappeared from Mexico. In 1935, as a result of the new banking legislation, the branches of four Canadian and American banks and an English bank closed their doors. At present the only foreign bank operating in Mexico is a branch of the National City Bank of New York. However, during recent years some American investment banks have participated in Mexican investment companies in co-operation with Mexican interests.

The same trend was noticeable in the insurance field. Only one Canadian and one U.S. life insurance companies operate in Mexico. However, most re-insurance is placed with foreign companies.

A very great number of foreign corporations, largely American, have set up distribution centres in Mexico during recent years.

IV. Foreign Direct Investments in the Balance of Payments

Foreign Investments and Mexican Foreign Trade. The following table shows the percentage of products coming from Mexican-controlled enterprises in the total exports of Mexico:

Table 5. Percentage of Exports in the Total Exports of Mexico Originating from Mexican-controlled Sources.

<table>
<thead>
<tr>
<th>Year</th>
<th>Including Precious Metals</th>
<th>Excluding Precious Metals</th>
</tr>
</thead>
<tbody>
<tr>
<td>1936</td>
<td>26%</td>
<td></td>
</tr>
<tr>
<td>1937</td>
<td>21%</td>
<td></td>
</tr>
<tr>
<td>1938</td>
<td>29%</td>
<td>41%</td>
</tr>
<tr>
<td>1939</td>
<td>34%</td>
<td>50%</td>
</tr>
<tr>
<td>1940</td>
<td></td>
<td>48%</td>
</tr>
<tr>
<td>1941</td>
<td></td>
<td>65%</td>
</tr>
<tr>
<td>1942</td>
<td></td>
<td>65%</td>
</tr>
<tr>
<td>1943</td>
<td></td>
<td>76%</td>
</tr>
<tr>
<td>1944</td>
<td></td>
<td>80%</td>
</tr>
<tr>
<td>1945</td>
<td></td>
<td>82%</td>
</tr>
<tr>
<td>1946</td>
<td></td>
<td>85%</td>
</tr>
</tbody>
</table>

The trend shown by this table is probably one of the most significant indications of the rapidly increasing part of national capital in Mexican industry. Moreover, recent years have seen a large extension of exports of the manufacturing and food industries in which Mexican capital is predominant, while the foreign-controlled mining industry has lost the leading position it always had, until the war, in the exportation field (it accounted for nearly 75 per cent of the total exports in the pre-war years).

55/ Wythe, op. cit., p. 310.


57/ According to the Annual Statement of the "Banco de Mexico S.A."
Incomes Earned and Remitted by Foreign Companies Operating in Mexico. Detailed information on the income derived from foreign direct investments in Mexico is available only for U.S. investments; even it is a subject of controversy, with wide discrepancies between American and Mexican estimates. This income is given as follows by the U.S. Department of Commerce:

Table 6. Incomes Derived from American Direct Investments in Mexico

<table>
<thead>
<tr>
<th>Year</th>
<th>Income Received in U.S. (see Note)</th>
<th>Earnings Invested in Mexico</th>
<th>Total Net Earnings (after Mexican taxes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1944</td>
<td>15.9</td>
<td>4.8</td>
<td>20.7</td>
</tr>
<tr>
<td>1945</td>
<td>10.8</td>
<td>4.5</td>
<td>15.3</td>
</tr>
<tr>
<td>1946</td>
<td>21.5</td>
<td>6.0</td>
<td>27.5</td>
</tr>
<tr>
<td>1947 (estimated)</td>
<td>28.0</td>
<td>8.0</td>
<td>36.0</td>
</tr>
</tbody>
</table>

Note: The income for the preceding years, in millions of U.S. dollars, was:

- 1939: 11.0
- 1940: 12.0
- 1941: 12.2
- 1942: 14.6
- 1943: 16.9

The net earnings in Mexico (Column 3) of American direct investments, based on United States figures, have always been substantial. In 1947 they averaged 9 per cent of the total capital invested. The yield of net income paid in the United States (Column 1) stands as follows:

- 1939: 3.4%
- 1940: 3.9%
- 1943: 5.9%
- 1947: 7.0%

These yields are lower than the average yields for the American republics, given by the same source, during the pre-war years as well as in more recent years. In 1943 the average yield of Latin American investments was 6.6 per cent, those of Brazil, Chile, Peru, Uruguay and Venezuela yielding more than 10 per cent. It should be noted, however, that the earnings in Mexico are very unequal; they are low in public utility enterprises because of the high rate of tax, low also in the mining field on account of the high taxes, but very high in trade manufacturing where they averaged 20 per cent a year during the recent period (before taxes, which are particularly low in this field).

The earnings of British direct investments have always been much lower. The South American Journal gives the following estimates of their yields:

- 1939: 3.1%
- 1940: 3.9%
- 1943: 5.9%
- 1947: 7.0%


South American Journal, April 10, 1948.
American sources \(^{61}\) have put at 2.5 million dollars the payments by Mexico as income on foreign direct investments other than American. This figure seems too small; \(^{62}\) 5 or 6 million dollars are more probable.

There are no official Mexican estimates of the earnings of foreign companies. Private sources \(^{63}\) have put at 56 million dollars in 1940 and 74 million dollars in 1942 the sums of money repatriated abroad as profits of foreign enterprises (instead of, at the utmost, 18 or 20 million dollars according to American and British sources). These figures seem too high. American estimates, such as given in Table 6, may be accepted as more reliable although they probably underestimate the total by as much as 20 per cent and should be augmented with certain remittances made by American subsidiaries to pay various costs such as amortization, technician fees, etc.

The Mexicans have often stressed the fact that only a small portion of the earnings of foreign capital has been re-invested in Mexico. Such re-invested earnings amounted to 25 to 30 per cent of total earnings, according to U.S. estimates, during the 1944-47 period, although re-investment was probably higher than usual during this period. But the heavy repatriation of earnings appears to be in about the same proportion as in the rest of Latin America.

**Capital Movements Related to Foreign Direct Investments in Mexico.** Capital movements related to U.S. direct investments in Mexico are given by the U.S. Department of Commerce as follows:

**Table 7. Capital Movements Related to American Direct Foreign Investments in Mexico**

<table>
<thead>
<tr>
<th>Year</th>
<th>(1) Liquidation of direct investments in Mexico</th>
<th>(2) New direct investments in Mexico</th>
<th>(3) Changes in intercompany accounts</th>
<th>(4) Net capital movements</th>
</tr>
</thead>
<tbody>
<tr>
<td>1944</td>
<td>2</td>
<td>3.4</td>
<td>+ 2.1</td>
<td>+ 5.3</td>
</tr>
<tr>
<td>1945</td>
<td>8</td>
<td>11.6</td>
<td>- 4.4</td>
<td>+ 6.4</td>
</tr>
<tr>
<td>1946</td>
<td>-</td>
<td>.5</td>
<td>- 3.6</td>
<td>- 3.1</td>
</tr>
<tr>
<td>1947 (estimated)</td>
<td>3.2</td>
<td>4.1</td>
<td>+13.4</td>
<td>+14.3</td>
</tr>
</tbody>
</table>

Note: = indicates a net flow of capital from Mexico to the United States, + a net flow into Mexico from the United States.

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\(^{60}\) South American Journal, January 14, 1948.

\(^{61}\) National Advisory Council, Report No. 149, Appendix 2.

\(^{62}\) The N.A.C. report (App. 2) arrives at the 2.5 million figure by assuming (continued on next page)
The volume of new direct investments in Mexico, such as shown in Columns (2) and (3), has also been a subject of controversy. Other estimates give 7 or 8 million dollars, and even 25 million dollars a year, while Mexican experts stress the fact that American capital has not invested much in Mexico in spite of the government's friendly attitude towards foreign investors. It is probable that the higher estimates are the result of confusing total flows of capital with direct investments and the capitalization of new enterprises with capital actually invested in a given year supplied from foreign sources.

No data are available on capital movements related to non-American foreign direct investments. Taking into account the exchange control regulations prevailing in most countries, these movements should have been small.

The net movement of the balance of payments between U.S. and Mexico related to American foreign direct investments indicates an excess of payments by Mexico to the United States due to the sum paid by the former country as income (Table 6, Column 1), which are larger for each year for which data are available than the net capital movements representing new investments of American capital into Mexico (Table 7, Column 4).

B. Government Economic Policy and Regulations

The attitude of Mexican governments towards foreign enterprises has been determined by two main objectives: a nationalistic one, to free the country from foreign control such as existed before World War I when the British and American capitalists were looked upon as successors of the Spanish crown as overlords of the country; and a socialistic one, to guard and protect the worker against the employer according to the spirit of the Revolution of 1911.

These two objectives have been pursued through different measures following a double trend: (1) the nationalization of natural resources with preference given to Mexican citizens against foreigners; and (2) an increased degree of government participation in economic activities. The first of these trends is in keeping with the philosophy of the Constitution of 1917, while the second represents a later development.

I. Nationalization of Natural Resources and the Preference Given to Mexican Citizens as Against Foreigners

The Constitution of 1917 is still the philosophic and legal basis of the Mexican economic policy. It lays down four major principles:

Footnotes continued from previous page:

62/ (continued) "a 3% rate on somewhat less than 20 million of investments". A 3% rate seems normal as a rate of net earnings in view of the British yields given in the South American Journal (see above). But total non-American foreign direct investments are certainly larger. If we apply a 3% rate to the more probable estimate of 275 million dollars we come to 7 or 8 million dollars. It is impossible, however, to know how much of this sum is repatriated. By applying the same percentage as for American investments, we would arrive at 5 or 6 million dollars (on the basis of the smaller estimate).

63/ Anuario Financiero de Mexico, El Trimestre Economico 1942, No. 1.
(a) The nation has an original domain over all lands and waters (Art. 27). A law of August 26, 1944 makes clear that properties may be alienated to individual persons without departing from the national patrimony.

(b) The nation has a right to control and limit private property in the state interest.

(c) The nation has a direct and inalienable domain over all subsoil and surface deposits, the nature of which is different from the components of the soil (terrenos). (Art. 27)

(d) As to the rights of foreigners to acquire property, only Mexican citizens and Mexican companies have the right to acquire the ownership of lands, waters and their appurtenances or to obtain concessions for the prospecting and exploitation of mines, waters or combustible minerals. However "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 properties and bind themselves not to invoke the protection of their governments in matters relating thereto". (Art. 27)

Thus companies with foreign shareholders customarily include a clause in their charters stipulating that these shareholders shall be considered as Mexican citizens insofar as their rights in the company are concerned. However, adds Article 27, "under no circumstances may foreigners acquire direct ownership of lands and waters within a zone of 100 kilometers along the frontier and of 50 kilometers inland from the seacoast". An executive decree of June 27, 1944 has further limited the rights of foreigners to acquire ownership of lands, waters and their appurtenances or to obtain a lease of more than ten years, by submitting these rights to the same conditions as required for doing business in Mexico.

II. Increasing Participation of the Mexican Government in the National Economy

This participation has been mainly inspired by political and social motives. Although not directed specifically against it, foreign capital is very often affected by its development.

The first six-year plan (1933-1940) marked the beginning of an increasing government participation in economic affairs and was meant to be "the first stage of a progressive regime of planned economy". The second six-year plan, formulated for the years 1941-46, continued this policy and called for governmental action to assure the economic, social and political aims drafted by the National Revolutionary Party. However, wartime shortages and the inauguration of a new regime in 1940 put a first priority on objectives of economic development which had remained in the background during the thirty preceding years. The more realistic approach of the second six-year plan reflects this attitude and it is voiced in recommendations of the Commission charged with the study of this plan, such as the one which declared that "this work (of the government) will always be conditioned by available resources and by constantly changing circumstances which may well invalidate certain solutions and make advisable others which cannot be foreseen".
The Mexican Government entered into the economic field through the classical ways: nationalization of already existing enterprises, setting up of new industries under government control or with the government, and regulation of the national economy or parts of it.

Nationalization, both in the sense of state ownership or control of economic enterprises and of state intervention in or regulation of enterprises privately owned or controlled, has long been a characteristic feature of the Mexican economy. It was intensified mainly during the regime of President Cardenas (1934-40).

The Law of Monopolies (August 31, 1934) provided the State with almost unlimited powers of intervention, regulation and control in enterprises judged monopolistic. Apart from its ideological reasons, this law aimed to protect the then starting Mexican-owned industry against big foreign concerns. This law was not actually used much by the Mexican Government.

More important is the Expropriation Law of November 25, 1936. It gave the Government large powers to expropriate any private property for reasons of public interest. The law gave to the notion of "public interest" as large an interpretation as possible (although the courts did not always construe it that way). Examples of motives for expropriation are: "the creation or development or conservation of any enterprise operating for the benefit of the people" (Art. V) 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 the people in particular".

The following analysis has been given of the Expropriation Law of 1936: "(1) It confers full powers for the exercise of the sovereign power of eminent domain, (2) it places all property, tangible or intangible, within the scope of such power, (3) it offers no definite, tangible or valuable consideration (i.e. compensation) for the property appropriated and (4) it denies the right of appeal, consequently depriving the owners of the full protection of the Courts. On the whole it follows closely Latin American philosophy of eminent domain in everything but in the important fields of compensation and appeals."

The Law of Expropriation was the basis of several expropriations, mainly of the railways (1937) and of the petroleum companies (1938).

The first of the government's measures against foreign oil companies was a law of December 31, 1924 which provided national control of the oil industry; it re-affirmed the nation's ownership of the subsoil wealth but authorized its exploitation by private interests under concessions from the government. However, during the following years the government withheld confirmation of numerous concessions acquired after 1917. A decree of January 26, 1924 created a semi-official agency to serve as a nucleus for the future development of the national industry by engaging in the production, refining and distribution of petroleum products. This government agency was re-organized in January 1937.

64/ Expropriation Law of Mexico by Henry Paine Crawford.
The final events which led up to the expropriation of foreign-controlled oil enterprises started in 1936 with labour troubles. Various unions of the petroleum industry merged into one syndicate which asked for higher wages and better working conditions, such as all hiring being done through the syndicate; promotions being made on syndicate seniority rules; all reduction of personnel having to be agreed upon by the union; all disciplinary action being done through the union, and housing being furnished to the workers according to specifications drawn up by mutual consent with the union. No agreement was reached on these requests between the unions and the foreign corporations during a joint conference which lasted from December 1936 to May 1937. The syndicate called a strike on May 27, 1937. On June 7 the controversy was submitted to the Federal Conciliation and Arbitration Board. The Board gave an answer favourable, on the whole, to the workers and the oil companies filed a petition with the Mexican Supreme Court. The Supreme Court sustained the findings of the Board in its decision of March 1, 1938. As the foreign companies still refused to yield on any of the workers' demands, except a certain wage increase, the syndicate asked the Board on March 16 to terminate the contract between the companies and the syndicate. On March 18th the Board declared the contract void and, on the same day, the government issued an expropriation decree based on the Expropriation Law of November, 1936.

After the expropriation, the government entered into negotiations with the foreign companies and a prolonged controversy followed, relating both to the right of the government to expropriate (upheld by the Mexican Supreme Court on Dec. 2, 1939) and the valuation upon which indemnity payments were to be made. **55** Arrangements were concluded in 1940-41 by which the Sinclair Oil Co. received U.S. $8.5 million and the Cities Service Co., U.S. $1.1 million. **56** In 1942 the U.S. Government negotiated with the Government of Mexico a settlement of the remaining U.S. claims and on April 18, 1942, international experts reached an agreement with respect to the expropriated properties of the American oil companies, mainly the Standard Oil Company of New Jersey, the Standard Oil Co. of California and other smaller holdings. The sum of U.S. $23,995,991 plus 3 per cent interest from the date of the expropriation, amounting to U.S. $5,141,709, was acknowledged by the Mexican Government to the corporations involved which accepted this settlement in 1943. The final payment was duly made on September 30, 1947. On August 29, 1947 a similar agreement was signed with the Government of Great Britain with respect to the amount of the indemnity to the Mexican Eagle Oil Co. Mexico agreed to pay in U.S. dollars the sum of $61,290,000, plus interest at 3 per cent from March 18, 1938 to September 18, 1948, i.e. 130 million dollars altogether. Payments will be effected in New York in fifteen yearly installments of U.S. $6,687,257.95, including interest on the outstanding balance. Altogether the Mexican Government purchased the foreign oil companies for roughly 170 million U.S. dollars, interest payments included. (For the year 1940, Mexico's oil production, although very low, was valued by the Mexican Industrial Census at roughly 70 million U.S. dollars. **57**)

After the expropriation, the already declining oil production went still lower in spite of a $200 million dollar deficit. Although it came back in 1946 for the first time to the 1937 level, it is insufficient to enable Mexico to meet the growing demand inside the country and to regain its former position as a large exporter. Capital and equipment are particularly needed for the exploration of new fields which has been neglected during the last ten years. The

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**55** Economic Controls and Commercial Policy in Mexico, U.S. Tariff Com'n, p. 22.


**57** Mexican Industrial Census, 1940, preliminary figures.
Mexican Government took the first step in this direction in July, 1946 when it asked for bids on the development of a new field in Lower California. However, outside capital could participate only through mixed corporations in which the Mexican Government would own the majority of the stock. In 1947 a contract was concluded with J. E. S. Jones on a contractor's basis, cost plus 10 per cent for 100 wells with the provision that 35 per cent of the payment would be in oil with an additional option on 15 per cent of all oil produced. After laborious negotiations, a new deal took place in April, 1948 between Penna, the government oil monopoly, and the Cities Service Company, by which the American company would lend one million dollars annually for ten years at 3 per cent, the money to be used for exploring north-eastern Mexico. The exact terms of the contract and the advantages reserved to the Cities Service Company are not known. On June 5, 1948 a spokesman for Penna indicated that the company may give as much as 80 per cent of the oil produced to foreign concerns willing to invest capital on new exploitations. However, it is understood that Penna will allow this percentage only until the companies have recovered the money spent up to the time a well is brought in. On the other hand, Penna denied that the companies were invited to come to Mexico "at their own risk". All investments made on exploitation of the country's oil resources would be paid for on a short basis if oil is struck soon, one a long one if drilling is unproductive. These offers of Penna clearly show the determined effort to attract U.S. companies to Mexico on a liberal "share the production basis". \(^\text{68}\) Another agreement is reported to be under way between the Texaco Company and Penna for a loan of 30 million U.S. dollars.

**Extent of Government Participation in Industry.** The Mexican Government acquired or created in the pre-war years enterprises in different fields, including sugar-mills, a life insurance company, a plow manufacturing corporation, a paper concern, a cinematographic institute, electric plants, a steel mill and a coal mine (some of them were turned over to workers' co-operatives). In other cases the Government limited itself to helping new private enterprises that might otherwise not have been initiated.

In 1933 the "Nacional Financiera S.A." was created; it was re-organized in 1940. One of its aims was to promote and lend financial aid to enterprises concerned with production, especially those which, because of the large sums involved and of the uncertainty of their results, had not attracted private capital. Different government-controlled banks are very important in different economic fields where they introduce the Government's policies. The most important are the "Banco Nacional de Credito Agri S.A.", the "Banco Nacional de Credito Eucal S.A.", the "Banco Nacional Hipotecario Urbano y de Afiyas Publicas S.A.", "Banco Nacional Comercio Exterior S.A.", "Banco de Pequeno Comercio del D. Federal S.A. de C.U." and the "Banco Nacional de Fomento Cooperativo S.A. de C.U." In July, 1944, the Federal Commission for Industrial Development was created in order to plan, finance and organize new enterprises. It was instructed to establish industries "indispensable to the industrialisation of the country" but only when capable of operating ultimately on a sound economic basis and which had not as yet been undertaken by private concerns. \(^\text{69}\)

\(^{68}\) New York Times, June 6th and June 7th, 1948.

\(^{69}\) Economic Controls and Commercial Policy in Mexico (U.S. Tariff Comm'n, 1946)
Since 1940 there has been much less emphasis on nationalization although it has often been stressed that the Mexican Revolution was conceived as a continuing revolutionary process. However, the attitude of the present regime is very friendly toward investment of foreign capital which would participate in its program of industrialization. Nevertheless, the government reserves definitely the right to regulate such investments like the rest of the economy of the country and there has been no slackening of the policy of intervention and regulation for political, social or economic reasons. Different government agencies have been set up for price control (aimed more at checking inflation than at planning) and for official intervention in markets and the labour field.

III. Rights of Foreigners To Do Business

The general right of foreigners to do business in Mexico has been regulated by an executive decree of June 27, 1944. By this decree all foreigners or Mexican companies with foreign shareholders must obtain special permission from the Mexican Ministry of Foreign Relations in order to acquire ownership or control of enterprises devoted to industry, agriculture, stockraising, forest exploitation, and purchase, sale or exploitation of rural or urban estates. Purely commercial enterprises in Mexico except those which relate to public services rendered by the government.

The Ministry's permission is likewise required in order to:

1. organize companies that have or may have foreign shareholders and are devoted to any of the aforementioned activities,

2. modify or transform Mexican companies already in existence or to be formed in the future that have, or may have, foreign shareholders, when Mexican shareholders are replaced by foreign shareholders or when the company purpose is changed in any way,

3. effect purchase or sale operations for stocks or property shares by virtue of which control of the enterprise passes to foreign shareholders.

The Ministry of Foreign Relations is empowered to deny, grant or condition the permission required. This permission may be, but is not required to be, conditioned by two requirements: a) that nationals participate in the capital stock to the extent of at least 51 per cent of the total, and b) that the majority of directors or partners be Mexicans. However, enterprises organized for the establishment of a new industrial development in Mexico may be exempt from these two special requirements.

A decree of June 23, 1947 established an Intersecretariat Commission to co-ordinate the application of legal provisions pertaining to the investment of foreign capital in Mexico, review the list of enterprises subject to rulings calling for a majority of Mexican capital, and formulate general regulations to govern the application of the legal provisions of the Ministry of Foreign Relations which has large discretionary power to amplify or restrict them. The new group should aim to maintain "a just and advisable balance . . . between national and foreign capital invested in the Republic."
In practice there has been no definite pattern as regards insistence by the Government on the "51%" requirement, each case apparently being judged on its own merits. Up to November, 1947 the Commission had determined that the majority of 51 per cent was actually required in the following enterprises before obtaining the Minister's permission: radio broadcasting, motion pictures, air transportation within Mexican territory, urban and interurban transportation, fishing, soft drinks and publishing. 20/ The "51%" requirement is practically a "dead letter" in the industrial field. 21/ It is always easy enough to find the necessary "nominal" shareholders.

Minimum Capital Requirements. The Mexican law covering immigration (August 30, 1936) specifies that immigrant investors must prove that they possess a minimum capital of 100,000 pesos (about $20,000) to establish a business in the Federal district including Mexico City, 20,000 pesos (about $4,000) in one of the States' capitals, and 5,000 pesos (about $1,000) elsewhere.

IV. Labour Regulations

Labour questions have been predominant in the political and economic life of Mexico during the last thirty years. The Revolution of 1911 itself was largely a social movement. The Constitution of 1917 expressly states it to be the obligation of the State to guard and protect the interests of the workers against the superior power of the employers. The labour movement has been a strong contributing factor in shaping Mexico's policy with regard to economic intervention.

The basic labour law is a Labour Code of August 25, 1931, which made large concessions to the unions. Since the revolution, the government has turned over factories and other properties to, and tolerated their seizure by, the workers' co-operatives. However, this policy has been much altered since 1941 and an amendment to the Labour Code on April 10, 1941 provided that strikes could be called only by a majority of the workers and through a carefully outlined procedure.

Different labour laws have strictly regulated the employment of aliens in Mexico. Their entry into the country is permitted only if they are technical experts not otherwise available in Mexico. In addition, the employer of a foreigner must in each case train one or more Mexicans at his own expense so that, once qualified, they may take over the position of the alien.

The Federal Labour Code specified that the proportion of Mexican citizens in all undertakings must be 90 per cent, both as to unskilled and skilled workers. This legal proportion does not apply to managers, directors, administrators, superintendents or the general heads of concerns and consequently does not seriously affect foreign enterprises.

V. Taxation

Except for mining activity, taxation is very light in Mexico in comparison with the United States. There is no evidence of taxation being discriminatory

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20/ Article by the President of the Intersecretariat Commission, published in Mexico's newspapers on October 31, 1947.

21/ Report by U.S. Consulate-General of Monterrey, No. 99.
towards foreign capital.

Under the terms of the Law of Manufacturing Industries (April 2, 1941), broadened by a superseding law for the development of manufacturing industries, tax exemption privileges are provided for new or necessary industries upon approval of the Ministries of Finance and of National Economy. These taxes exemptions may be granted for as long as a period as ten years.

The law defines: (1) new industries as those which plan the manufacture of merchandise which is not being produced in the country and (2) necessary industries there which undertake to manufacture merchandise which is being produced in the country but not in sufficient quantity to satisfy the needs of national consumption. The law does not apply to the mining or petroleum industries, to assembly plants, nor to small enterprises where cost of production is too high.

VI. Tariff Structure

Imports. Historically the Mexican customs tariff has been primarily a fiscal instrument and import duties accounted for about one-third of the total government revenue in the decade 1920-1930. Since the beginning of the six-year plans the customs tariff has also been intended to protect the national economy and to correct the deficit in the balance of payments.

The Mexican import tariff is applicable to imports from all countries and assesses specific duties, usually upon the basis of weight. The rates were rather low for manufactured products. However, a decree of July 11, 1947 imposed much higher tariffs on a certain number of items. The protective trend of the new tariff policy is shown by another decree of July 11, 1947 which temporarily suspended any importation, except as licensed, of a large number of items, mainly luxury ones. A new revision of the import regulations is said to be tied to present negotiations between the U.S. and the Mexican Governments aiming at a revision of the 1942 trade treaty between the two countries. Higher import tariffs are sought by the Mexican Government in order to help develop infant industries in the country. Moreover, duties on imports based on weight appear inadequate in view of the increase in costs.

Exports. In addition to specific taxes applicable to relatively few commodities, the majority of exports were subject since 1938 to a tax which amounts to 12 per cent of an "afere" or appraisal value of commodities which is set by a committee and revised from time to time. This has been abolished by a decree of Nov. 27, 1947 which set up a new system of export duties, "ad valorem", particularly heavy for the mining exports. On the other hand, taxes on textile exports have been abolished. However, the laws for the development of manufacturing industries except the new or necessary industries from most import and export duties for a certain period of time.

VII. Exchange Controls

Mexico does not control or restrict in any way the transfer of funds out of the country for any purpose.
VIII. Special Laws Affecting Industries

Mining Industry. The decree of July 7, 1944 applies to the acquiring of a mining concession on a lease for more than ten years in order to perform mining activities. Consequently, the Minister's permission is required in these instances and may be conditioned by the 51 per cent requirement. In any case, an application for concession presented by foreigners in competition with Mexican citizens is to be rejected (Art. 32 of the Constitution and Art. 57 of the Mining Law). Each concessionaire is, moreover, bound to have a permanent, legally authorized representative in the Republic, who does not need to be a Mexican citizen, for the purpose of attending to all business connected with this concession (Art. 115 of the Mining Law).

Net taxable income derived from concessions of subsoil exploitation is subject to a basic rate of 10.2 per cent, plus a graduated surtax ranging from 8.5 to 31 per cent. These very high taxes have inhibited all new investment in the mining field and the margin of profit is so narrow that only the large concerns can operate under such conditions. Moreover, the tax is levied in accordance with the value of metal content regardless of quality of the ore or cost of production, thus encouraging the neglect of all but very high-grade ores. A revision of the mining tax system is reported to be under way.

A Mining Development Commission was created in 1934 in order to develop the mining industry by direct governmental or co-operative exploitation of national resources, and give financial assistance to small Mexican mining enterprises. The production of the government-owned plants is almost negligible; according to the official publication, the Commission has played an important role in the improvement of small mining enterprises and mining co-operatives.

Electric Power Industry. During the period 1930-32 the Government decreed a drastic downward cut in rates which, combined with the menace of nationalization, stopped all investments in this industry. Faced with a rapidly growing demand for electric energy, the Government in 1937 set up a Federal Electric Commission charged with building new plants and integrating an electric program for the Republic under the direction of a director of the electric industry, who supervises the whole Mexican electric industry. The Commission began work in 1938 and its installation accounted for approximately 20 per cent of the total investment in the electric industry in Mexico (including "Nueva Compania Electrica de Chapala" which operates under the Commission's control). 74/

The status of the private companies, which are 95 per cent foreign-owned, has been the subject of many controversies. The Law of the Electric Industry, issued December 31, 1938, was along the line of the Cardenas Administration's policy. Only Mexicans and Mexican companies have the right to obtain electric concessions (Art. 15). The law provided that the tariff of sale of electric power was to be fixed by the Ministry of Economy. However, concessions could be granted to private companies for fifty years only, after which all properties reverted to the State free of charge. The increasing shortage of electric power and the necessity for investments by private companies in this field led the government to alter the 1938 law in 1941 and 1945 to the advantage of private companies.

74/ Electric Power in Mexico, Loan Department Report, p. 3.
According to the new law, the regulatory function of the activities of the electric industry is exercised by the Federal Government through the Ministry of National Economy which receives, studies and grants the requests for concessions. The concessions are granted for fifty years during which time the concessionaire is supposed to pay the Federal Government an amount equal to the value of the investments made for the supply of public service with the exception of the value of permanent hydraulic works. The payment is made yearly by a 2 per cent tax on the value of said investments. At the end of fifty years the concessionaire has a right to obtain a renewal of the concession for a period of time which should not exceed fifty years. During the second period the concessionaire would not pay the 2 per cent tax and could make annual accruals to form an amortization reserve up to an amount equal to the value of the permanent hydraulic works.

At the end of the concession, the concessionaire may retire his installation and sell all property covered by the concession except the hydraulic works which revert to the nation without compensation; however, the Federal Government has a right to acquire the installation and properties of the concessionaire if it so desires, in which case the government must pay the price fixed by two experts nominated by both parties or by three experts in the case of controversies.

The rates are regulated and fixed by the Ministry of National Economy through the General Electricity Bureau and the Electric Tariff Commission "on the basis of a fair return to the concessionaire". It is calculated on the value of the property of the concessionaire as represented by physical property in existence as of December 31, 1941. This value is determined by means of tables of unit values contained in the regulations of the Electric Law. The investments made after December 31, 1941 are taken at cost in the national currency at the date they are made. To the value of physical properties so determined should be added the value of the intangibles which in no case should exceed 15 per cent of the value of physical properties. In addition, an amount is added for the working capital. The sum of these three elements constitutes the rate base on which a fair return is determined.

The rate of return must be fixed with due consideration of the return made by other public service companies and, in general, by other similar undertakings. In no case should the rate of return be fixed at a lower figure than the highest rate of return corresponding to government bond issues (unless accepted by the concessionaire). This highest rate is presently 6.5 per cent. Naturally, retirement and replacement funds are taken into consideration.

In reality there is said to be a considerable time lag between filing of rate adjustment applications and their approval. Consequently, the rate of return is very low in view of the rising costs; it is estimated by the private companies at between 2-1/2 and 3 per cent which cannot be regarded as conducive to other than limited expansion and development by private companies. But since 1940 government policy towards private companies has been more co-operative and, in the opinion of responsible private operators, there is hope of getting fairer rates and no threat of expropriation.

75/ Electric Projects of the Republic of Mexico, Federal Electricity Comm'n, p. 27
76/ Electric Power in Mexico, Loan Department, p. 4.
77/ Ibid., p. 7.
Taxation on the electrical industry is heavy; in addition to ordinary taxes it has to pay the 2 per cent tax on investments indicated above, plus a 10 per cent tax on the sale of electric energy consumed in the country and levied in accordance with the law of December 31, 1938.

The Federal Government also controls the electrical industry from the standpoint of production and safety to life and property of persons through inspection of plants to see if safety regulations are observed.

Insurance. The Insurance Law of 1935 put prohibitive regulations against foreign companies whose capital requirements are higher than for domestic companies. Moreover, insurance policies by foreign companies covering risks in Mexico do not have standing in Mexican courts. 73/

IX. Development Program and Government Policy Toward Foreign Participation

Mexico's capital requirements are very high, particularly in relation to its ambitious industrialization program. U.S. mining interests estimated that a 100 million dollar program would be necessary in this field. 74/ Recently the National Power Industry Chamber said it was necessary to invest at least 400 million dollars in development of the power industry during the next five years. 75/ More conservative estimates put these expenses at roughly 200 million dollars. 76/ The needs of other industries, such as the petroleum and manufacturing industries, are also considerable.

Since 1940 the Mexican Government has often indicated that private capital is expected to assume the largest part of the financing of the country's development. Finance Minister Ramon Beteta recently emphasized that this private capital should be mainly Mexican and he is sponsoring a plan designed to get a vast amount of hoarded savings throughout the country, which he puts at 200 million dollars. In order to encourage Mexicans to invest their savings in their own industry, an institution has been created (Council for the National Savings Campaign) which plans to issue 6 per cent bonds of small denomination, redeemable at sight. 77/ The Government hopes this plan will break down some of the traditional skepticism of Mexicans towards investments in stocks and bonds as well as their distrust of banks. The funds would be administered not by the Government but by a commission composed of bankers and officers of industrial and labour organizations. 78/

The flow of foreign capital into Mexico will be primarily governed by the investor's estimate of the prospect for an attractive return. Mexico offers this

73/ Mexico - International Reference Service, op. cit., p. 5.
74/ Outlook for Investment in Foreign Countries, Standard & Poor's, p. 61.
76/ Electric Projects of the Republic of Mexico, op. cit.
return already in the manufacturing and trade field, where 20 per cent profit a year has been usual during recent years, while the petroleum industry could also provide large returns on the new basis offered by Panex. But public utilities and the mining industry do not offer attractive investments under the present conditions. On the other hand, taxation is light in Mexico and new industries are tax-exempt during a period going from five to ten years. However, it should be noted that the rate of return does not seem to be higher in Mexico than in the rest of Latin America. In fact, available figures show that the average yield of American investments in 1938 and 1945, and of British investments in 1947, has been smaller in Mexico than in most Latin American countries (see above).

Aside from the expected returns, foreign capital takes into account three special risks: the burdensome restrictions imposed on foreign-owned enterprises, the risk of confiscation, and foreign exchange restrictions which may prevent the conversion of currency earned. 24/ Regarding the first two risks, the Mexican government has repeatedly given assurances to private capital since 1944 concerning its security and safety. Public utility companies have been told specifically that the government is not even considering expropriation or competition but, on the contrary, is ready to assist private capital. Many businessmen are said to have accepted these assurances at face value. 25/ However, the Mexican government does not seem to have abandoned the possibilities of intervention in foreign enterprises which it acquired through different laws during the 1910-1946 period. In 1944 the Mexico City street-cars were taken over by the government and on June 17, 1946, concessions for foreign telegraph, cable and radio companies were cancelled. At the Bogotá Conference in April, 1948, Mexico was opposed to the insertion of a clause favouring, in case of expropriation, the "payment of a fair price in a prompt, adequate and effective manner".

The maintenance of a free exchange system constitutes a strong element of attraction for foreign capital into Mexico, which is one of the few countries in the world without any exchange control. Moreover, Mexico is firmly committed to the maintenance of a stable exchange rate and the stable rate of the peso during the recent period has been an important factor in investments. The possibility of Mexico's maintaining a balance of payments position which would enable it to keep a system of free exchange is beyond the scope of this study. It should be noted, however, that in case of a less favourable balance of payments, Mexican authorities would stress again the fact that, according to their estimates, the unknown capital movements, interest, dividends and other service payments, constitute one of the main items of their debts (approximately 20 or 25 per cent of the debit side of the balance of payments in the four years 1938-42 before the wartime expansion of the balance of trade).

24/ Secretary Snyder's speech, Second Annual Trade Forum, May 21, 1948.