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E.O. 12065, Section 8-108
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ADDRESS OFFICIAL COMMUNICATIONS TO
THE SECRETARY OF STATE
WASHINGTON, D. C.



DEPARTMENT OF STATE
WASHINGTON

In reply refer to
A-C

March 16, 1945

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My dear Mr. Purcell:

There is enclosed a statement regarding "Investment of United States Public and Private Funds in Latin America" (D-2/45) which was prepared by the interdepartmental Committee on Inter-American Economic Development and which will be considered by the Executive Committee on Economic Foreign Policy at an early meeting. It is understood that Mr. Louchheim and others in your organization were consulted in the preparation of this statement.

In view of your interest in the document, you are cordially invited to designate a representative to participate in the consideration of it by the Executive Committee.

It is suggested that Mr. Carr, Executive Secretary of the Committee, be notified by telephone (extension 2868) of the name of your representative who may then be directly informed regarding the time and place of the meeting.

Sincerely yours,

William L. Clayton
Assistant Secretary

Enclosure:
ECEFP D-2/45

CHAIRMAN'S OFFICE



MAR 10 1945

The Honorable
Ganson Purcell, Chairman,
Securities and Exchange Commission,
Washington 25, D.C.



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By SE NARA Date 12-13-07

*Chairman's Files
Box 40*

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ECEFP D-2/45
January 2, 1945
(Revision of Development
Doc. 52/44)

INVESTMENT OF UNITED STATES PUBLIC AND
PRIVATE FUNDS IN LATIN AMERICA

I. Advantages of Foreign Investment

The United States Government recognizes that the foreign investment of United States capital to promote productive development is of benefit both to the United States and to the receiving countries. It provides immediate markets for United States capital goods and as development of the foreign economies takes place expands their purchasing power for other imported goods. It provides an outlet for capital funds which might otherwise be less profitably utilized and makes possible the development of export products thereby creating the means necessary for repayment. In the postwar period, such investment would provide an outlet for wartime surplus equipment and would aid in the utilization of excess plant capacity. It would stimulate international trade and contribute to the attainment of full employment and a high level of national income.

There is required, therefore, the formulation and enunciation by the Government of the United States of a policy appropriate to the development of productive investment. It is recognized, however, that quite as important as the policy of this Government are the policies of the countries in which investments are made. If United States investors are to commit their funds to undertakings abroad, they must have from those Governments the assurance of non-discriminatory and just treatment.

II. Criteria for the Foreign Investment of Both Public and Private Funds.

For the full realization of the advantages to be derived from foreign investment certain policies should be generally adopted and applied. Of these, some apply peculiarly to private investments, while others have

particular

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particular reference to investments made by government agencies. Sections III and IV which follow, are devoted, respectively to these two types. Policies which apply to all investments, whether public or private, are set forth below.

a) Investment should be in conformance with United States economic foreign policy.

b) New investment for economic development should be limited to projects which are productive and economically sound.

1. Adequate provision for the servicing of loans and ultimate full repayment should be made. Outstanding debts, including defaulted obligations, availability of local credit, and of foreign exchange, revenues, and other pertinent factors should be considered.

2. Funds should not be made available for enterprises which require for their success the imposition of excessive tariffs, the granting of a permanent subsidy or of any special governmental preferential assistance.

c) Rates of interest should be reasonable and periods of amortization should be adjusted so far as possible to the nature of the project and the economic and financial strength of the borrower and of the country in which the project is located. In meeting investment needs, whether public or private, consideration should be given to the advantages offered by the provision for variable rates of amortization based upon general economic conditions.

d) United States foreign loans should, except in unusual circumstances, be limited to the foreign exchange requirements of the borrower, and should not bear too heavily on the future foreign exchange position of the borrower's country.

III. United States Policy Toward Private Investments in Latin America.

In as much as the United States Government does not direct or control the investment abroad of private capital or stipulate the terms or conditions of private foreign

loans

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loans or investments, action by this Government regarding such loans and investments should be limited to registration, disclosure, and suasion.

a) In the interest of United States investors and indirectly, foreign capital receivers, the United States Government should consider the desirability of expanding, by appropriate legislation, the powers of the Securities and Exchange Commission to require (1) the registration of all private investments regardless of whether they are publicly offered, and (2) the submission of an annual financial statement by foreign governments which float securities in the United States market.

b) Adequate publicity should be given by the Securities and Exchange Commission to registered investments and by the Department of Commerce to total foreign investments, total investments in individual countries, and economic conditions, including the balance-of-payments position, in each country. The Department of Commerce should also make available information on the economic and financial opportunities for foreign investment, and the conditions affecting such investment including taxation, trade and exchange restrictions, limitations on foreign participation, labor legislation, and other pertinent data.

c) The Department of Commerce and, if necessary the Department of State, should use their good offices in an attempt to dissuade prospective investors, if the contemplated project is contrary to the economic foreign policy of the United States.

d) When representations in behalf of private investors are contemplated by United States Embassies, decisions upon the advisability of such representation should be predicated, among other pertinent factors, upon the character of the investor's operations in reference to United States economic foreign policy and upon the legality and ethical character of his business practices.

e) The Government should discourage all attempts by private United States interests to gain monopolistic or other special privileges within foreign countries

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which tend to restrain trade. It is recognized, however, that there may be cases where the nature of the industry (such as natural monopolies) would make competition uneconomic.

f) Agreements should be sought, on a multilateral or bilateral basis, providing in general for equality of treatment of foreign and domestic investments, with the condition that such treatment shall not fall below that which international law requires.

g) Investment in enterprises abroad should be undertaken so far as is feasible in cooperation with local investors, especially in the development of natural resources and public utilities.

h) In meeting investment needs and opportunities, consideration should be given to the advantages of equity investments as compared with loans having fixed obligations.

IV. Policy Regarding Loans and Investment by United States Government Agencies in Latin America.

Wherever possible, foreign financing should be undertaken by private enterprises rather than by the government. In many instances, however, private capital will be unable or unwilling to satisfy the demands of prospective foreign borrowers. The loans made abroad by United States Government agencies are, by virtue of the peculiar capacity and responsibilities of a sovereign government, subject to special conditions. Therefore loans should be so clearly distinguished from grants that no misunderstanding could arise.

a) The United States Government should take the lead and join with other governments in any statements of policy and action necessary to remove restrictions upon the market in which the proceeds of loans may be expended. It is recognized that most advances of capital from the United States will be in connection with trade involving United States exports and imports.

b) United States Government financing:

1. Should

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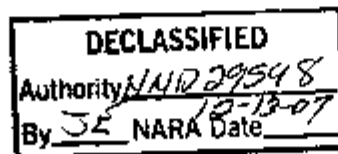
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1. Should be undertaken with the expectation of eventual full repayment even though the investment may not have been motivated by profit in the usual sense;
2. Should seek to avoid competing with private funds when the latter are available upon reasonable terms.

V. Public Statement of Investment Policy

Should this statement be approved, consideration might well be given to the making of a public announcement based upon its contents.

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Attachment: ECEFP D-2/45
January 2, 1945
(Revised supplement to
Development Doc. 39/44)

SUBCOMMITTEE ON INTER-AMERICAN ECONOMIC DEVELOPMENT

Statement on Protection of Investment

The Subcommittee is of the opinion that the report on investment should not contain any statements regarding protection of investment other than those in the opening paragraph of I and in III-(f). The Subcommittee feels that any further statement with respect to protection would be unfortunate for the following reasons:

1) It might be misleading to investors, since decision would have to be made in each case and in some instances protection would not be forthcoming.

2) The word "protection" requires definition. Is the use of force envisaged, and, if not, what action short of force?

3) A strong statement on protection might attract excessive amounts of investment in the American republics and possibly also the wrong type of investments, since, other things being equal, the better type of investments would probably need less protection than other kinds.

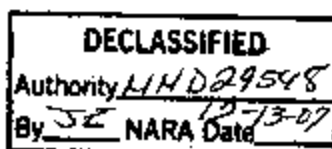
4) An active policy of protection might be expected to entail a greater degree of control over investments. On the other hand, in so far as the United States does establish control over investments, there would be a greater moral responsibility to protect and safeguard the investments so far as practicable.

5) What would the Government protect against? Laws increasing labor costs, increases in taxation, expropriation, taxes which are not technically "discriminatory", but which in practice affect only American firms?

In the final analysis it is very difficult, in many instances, to distinguish between bad judgment (improper appraisal of risks) by investors and bad faith or actual discrimination by the recipient of the investment.

Aggressive

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Aggressive action by the United States Government, or the adoption of a policy which would necessitate such action would probably prove detrimental to political and economic relations.

6) A statement on protection included in a published document would probably arouse unfavorable repercussions both in the United States and in Latin America. It might have an unfavorable effect on existing United States investments in Latin America. For example, it has been alleged that the anti-alien land laws and petroleum laws in Mexico in 1925-1926 and subsequent expropriations were inspired by Secretary Kellogg's famous statement that "Mexico is on trial before the world."

The Subcommittee believes that the United States Government should manifest an active solicitude for all United States interests abroad, including investments, both direct and portfolio. An active interest by the Government may be expected to have a considerable effect in restraining unfair and discriminatory action against United States investments by other countries. Such concern, however, should not be confined to investments but should also include the commercial and other economic interests of United States citizens.

As recommended in III-(f) of the report, the Subcommittee believes that the most hopeful approach is through negotiation of multilateral or of bilateral treaties of friendship, commerce and navigation which will provide formulae against discrimination, should it be attempted.

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Attachment: ECEFP D-2/45
(Revision of Supplement to
Development Doc. 39/44)

This attachment entitled "Statement on Protection of Investments" is to accompany the report on "Investment of United States Public and Private Funds in Latin America" by the Subcommittee on Inter-American Economic Development.

In preparing the statement on investment policy, the Subcommittee devoted considerable attention to the question of including in that statement a recommendation with respect to the policy which the United States Government might adopt in protecting United States citizens and their property rights in the other American republics. After discussion it was decided that it would not be appropriate to prepare such a recommendation.

The present attachment explains the position of the Subcommittee on this point and is being transmitted to the Executive Committee on Economic Foreign Policy so that the latter will know that this aspect of the subject had been given consideration.

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