PN-ABZ-523

Deloitte & Touche

A Survey of Foreign Investment Policies of Selected Developing Countries

Submitted to:
Supreme Council
and
Department of Foreign Economic Relations
Republic of Estonia

Contract # EUR-0014-I-00-1056-00
Delivery Order # 7
Prepared for EUR/RME/ER/ED

Draft

April 1, 1992

Member
DRT International

A

Table of Contents

B

Purpose of Report

This document is a survey of foreign investment policies in developing countries, focusing primarily on restrictions on foreign investment. We have selected countries which have attempted to protect vital industries while encouraging investment or which have achieved impressive economic growth in recent years. This survey is meant to stimulate discussion of the best way to maximize foreign investment while controlling resources in the national interest.

Chile

Date of source
February 1984

Government attitude toward foreign investment
The government of Chile actively seeks foreign investment as a means of economic development. Chile withdrew from the Andean common market to escape restrictions on foreign investment.

Foreign exchange controls
Regulation of foreign exchange is the responsibility of the central bank of Chile. Capital can be brought into Chile in foreign currency. However, foreign exchange operations are to be effected through authorized banks and financial institutions.

Investment registration
A contract with the Foreign Investment Committee specifying a time period for implementing the investment must be signed.

Repatriation
Foreign investors may remit profits annually. Capital may be repatriated 3 years after entering the country.

Restricted industries
All forms of business activity are open to foreign investors.

Restrictions on foreign ownership
None.

Other restrictions
Investments are to be implemented within 3 years of registration, except for mining investments, which are to be enacted within 8 years of registering the investment.

Restrictions on use land use and ownership
None.

Cites
The Foreign Investment Statute, Decree Law 600 (1977) as modified by Decree Law 1748. Supreme Decree 1272.

Greece

Date of source
December 1988

Government attitude toward foreign investment
The government encourages investments in heavy and export-oriented industries.

Foreign exchange controls
An application must be filed with the Bank of Greece to engage in foreign exchange transactions.

Investment registration
Foreign investors must register investments with the Ministry of National Economy with a feasibility study showing the benefits to the local economy. Foreign investors who are EC residents must register under presidential decree 207, which allows free movement of capital between Greece and other EC states.

Repatriation
Foreign investors must obtain government approval to ensure repatriation rights. Repatriation of proceeds from liquidation of investments by non-European Economic Community (EEC) residents is not allowed until three years after the initial investment. Full repatriation is allowed for ECC members.

Restricted industries
The government operates monopolies for the production and distribution of matches and salt. The government also has exclusive control and ownership of Olympic Airways, OTE (telecommunications), ELTA (post office) , DEI (electricity production and distribution), ERT1 and 2 (radio and television networks), OSE (railways) and the Greek sugar company.

Restrictions on foreign ownership
Greek banks must be locally owned except that some foreign ownership is allowed in certain specialized shipping or export banks. Foreign ownership of Greek shipping companies cannot exceed 49%. A majority of the members of the board of directors of Greek insurance companies must be Greek citizens. Mutual funds cannot be administered by foreign companies. Foreign ownership of Greek mining companies requires government approval. Foreign individuals of non-EEC origin cannot own shares in real estate corporations.

Other restrictions
None.

Restrictions on use land use and ownership
None.

Cites
Laws 2687 (1953), 1262 (1982), Presidential Decree 207 (1987) and Bank of Greece Decision 825 (1986-87)

Comments
As explained above, distinctions exist between treatment of ECC and non-ECC investors in regulation of foreign investment.

Hong Kong

Date of source
April 1986 and 1991

Government attitude toward foreign investment
Hong Kong welcomes foreign investment, but does not offer tax holidays and other incentives.

Foreign exchange controls
Hong Kong has no exchange controls and no restrictions on holding foreign currencies. Exchange control regulations were abolished in 1972.

Investment registration
Public companies incorporated outside of Hong Kong must submit a certificate of incorporation and other related documents.

Repatriation
Investment income may be transferred without restriction, and capital can be repatriated.

Restricted industries
The postal system, water supply, harbor, airport, Kowloon-Canton railroad and Radio-television Hong Kong are directly controlled by the government. These enterprises are closed to domestic or foreign private investment.

Restrictions on foreign ownership
The government makes no distinction between local and foreign companies. There are no regulations pertaining to foreign ownership of businesses operating in Hong Kong.

Other restrictions
None.

Restrictions on use land use and ownership
Nationality does not affect an investor's ability to purchase real estate. Because the government owns virtually all land in Hong Kong, most land is leased for 75 years with the option to renew the lease. Leases are not granted for periods beyond 1997, the termination date of the lease of Hong Kong from China to Great Britain under the 1989 Convention of Peking.

Indonesia

Date of source
September 1986

Government attitude toward foreign investment
An investment promotion package was announced on May 6, 1986. The government encourages private enterprise but requires local equity participation for foreign investments.

Foreign exchange controls
The central bank maintains a reporting requirement but no exchange controls.

Investment registration
The BKPM board reviews new investments. An investment priority list is published.

Repatriation
Repatriation of an investor's share capital is subject to government approval and is restricted until the investment is completed. Foreign Capital Investment Law 1 of 1967 regulates the transfer of foreign currency abroad.

Restricted industries
The refining, distribution and marketing of petroleum products are the only activities expressly closed to private investment.

Restrictions on foreign ownership
An investment may not exceed 30 years but can be renewed if certain requirements are met. A foreign investor must usually form a joint venture with at least one Indonesian partner. Initially 20% Indonesian ownership is required. Indonesian ownership of 5% is permitted if the enterprise is high risk, is capital intensive, involves high technology, is in a remote location or exports 85% of production. However, Indonesian ownership must reach 20% in 5 years, with an eventual transfer of 51% of the equity to indigenous Indonesians within 10 years. Similar requirements apply to the percentage of foreign managers. Foreign joint venture companies can gain rights enjoyed by domestic companies such as domestic distribution of production and the ability to borrow Indonesian currency from state banks. To qualify as a joint venture a company must sell 75% of the shares to the state or to private companies or sell 51% of the shares on the Indonesian stock market to Indonesian investors.

Other restrictions
None.

Restrictions on use land use and ownership
Under the basic agrarian law of 1960 only Indonesian citizens can own land. Even if an investor can gain the use of land he must often develop access to roads, power, water and sewage lines.

Cites
Foreign Investment Law 1 (1967) and 11 (1970), Basic Agrarian Law of 1960

Korea

Date of source
July 1989 and 1991

Government attitude toward foreign investment
The government encourages foreign investment but is selective.

Foreign exchange controls
Stringent exchange controls are enforced.

Investment registration
All investments by foreigners require government approval. Investment in a Korean venture requires the approval of the Ministry of Finance under the Foreign Capital Inducement Law. Foreign corporations must register with the central bank. Approval is automatic through a one-stop service office except for stated exceptions. It is possible but unusual and difficult for foreigners to invest in a domestic Korean venture or to establish a Korean branch.

Repatriation
Repatriation requires approval.

Restricted industries
There are two state monopolies: tobacco and ginseng. Foreign investment is not allowed in public services such as provision of electricity, housing and water, export promotion, and farm development, all of which are provided by government-owned companies. The government maintains partial ownership in commercial banks, oil refining and heavy industries. About 80% of industry is open to foreign investment.

Restrictions on foreign ownership
In most cases, foreign ownership cannot exceed 50%. Exceptions are most likely if the firm introduces new technology or exports most of its production. The minimum value of foreign investment is US$100,000. The investment is not acceptable without review if it exceeds $US 300,000 for manufacturing and $US100,000 for non-manufacturing activities.

Restrictions on use land use and ownership

Enterprises with majority foreign ownership may not own or lease land without the approval of the Ministry of Home Affairs.

Cites

Foreign Capital Inducement Law 1802 of 1966, amended by Law 2640 of 1973. Foreign Exchange Control Regulations Law 933 of 1961, amended by Law 1920 of 1967. Detailed guidelines on foreign investment promulgated by the Economic Planning Board.

Comments

Korea relaxed its restrictions on foreign investment after a period of economic stagnation during the 1970's and early 1980's. Amendments to the Foreign capital inducement law enacted since July of 1984 have expanded business areas open to foreign investment. Foreign exchange control regulations were relaxed in 1988 to allow remittance of annual profits subject to approval from a foreign exchange bank. A new policy stipulates that companies with foreign investment may be required to place shares on the Korean stock exchange after three years of operation.

Malaysia

Date of source
March 1985

Government attitude toward foreign investment
Investments from outside Malaysia, particularly in high technology, are welcome.

Foreign exchange controls
Exchange controls are administered by the central bank. Foreign companies are expected to borrow 50% of funds from domestic banks. Substantial domestic or foreign loans require approval.

Investment registration
Investments involving technology agreements require approval. All dealings with investors in Israel or South Africa require approval.

Repatriation
There are no repatriation restrictions, but a form must be filled out for information collection purposes.

Restricted industries
In the past, public utilities, telecommunications, railway transportation and postal services have been government owned. Feasibility studies are being conducted to determine if these industries could be operated by the private sector.

Restrictions on foreign ownership
The government feels that the need for foreign technology and capital must be balanced against the aspirations of Malaysians to participate in the economy. Therefore, foreign investment is welcomed in the form of joint ventures. All manufacturing companies with more than 25 employees must apply for a manufacturing license. A license is granted only after meeting local participation requirements. Companies in import substitution industries must have at least 70% Malaysian ownership. If an enterprise uses technology unavailable in Malaysia, foreign ownership of up to 49% is permitted. Export-oriented firms are allowed foreign ownership of 51 to 70 percent. On occasion companies that export 100% of production are permitted 100% foreign ownership. A maximum of 30% foreign ownership is stipulated for companies using nonrenewable domestic raw materials.

Other restrictions
None.

Restrictions on use land use and ownership
None.

Cites
Industrial Concentration Act of 1975.

Mexico

Date of source
September 1991

Government attitude toward foreign investment
In 1989 the Mexican government established new rules to encourage foreign investment.

Foreign exchange controls
Foreign currency exchange controls were introduced in 1982. All export transactions must be made at a fixed exchange rate. Foreign currency, subject to availability, may be acquired at a market rate for any purpose including remittance of dividends to foreign stockholders.

Investment registration
Registration with the Ministry of Foreign Affairs, and sometimes with the National Commission of Foreign Investment, is mandatory for foreign investments in Mexico.

Repatriation
There are no restrictions on transferring payments in Mexican or foreign currency.

Restricted industries
Activities reserved exclusively for Mexicans include radio and television transmissions, transportation on federal highways, air and maritime transportation, use of forests, gas distribution and stockbroker or insurance services. In addition, certain activities are reserved only for the government. These include oil and gas production, nuclear energy, some mining, and supply of electricity, railroads, and telegraph services. The government is selling up to 70% of government-owned businesses to private concerns. If a company is on the verge of bankruptcy or requires foreign capital to stimulate exports, some of the above restrictions may not apply, for example in the petroleum or automotive industries.

Restrictions on foreign ownership
Foreign equity participation in unregulated industries is unlimited. For certain activities foreign investment is limited to 49% or less. These activities include telephone services, exploitation of national resources such as ores, minerals and sand, and manufacture of secondary petrochemical products, automobiles, explosives and machinery for electricity generation.

Other restrictions
Industrial establishments are to be placed outside of areas with high concentrations of population or industry. Companies must generate permanent employment and provide training to employees. Also, 10% of annual profits must be paid out to employees.

Restrictions on use land use and ownership
Permission of the Ministry of Foreign Affairs is required to purchase real estate. A license is required from local authorities for any construction work. Additional restrictions apply for certain coastal or border zones in Mexico.

Cites
Law to Promote Mexican Investment and to Regulate Foreign Investment, 1973
Amendment to the 1973 Law, 1989

Comments
On May 16, 1989 a decree was issued that significantly liberalized the rules governing foreign investment in Mexico.

Philippines

Date of source
March 1989 and September 1990

Government attitude toward foreign investment
The government welcomes investments from abroad.

Foreign exchange controls
The central bank controls foreign exchange operations.

Investment registration
Foreign investment is regulated by the central bank, the Board of Investments and the Export Processing Zone Authority. Foreign investment requires registration with one of these agencies.

Repatriation
Repatriation of capital, profits and loans arising from technology transfer agreements requires central bank approval. Generally, full repatriation is allowed for export-oriented businesses. For other businesses, liquidation of investments is required before repatriation is permitted.

Restricted industries
There are no industries closed to private ownership. However, development and use of natural resources is permitted only under government supervision. Often, such enterprises are 40% government owned and 60% Filipino owned. Certain industries are closed to foreign investment. These industries include retail trade, some banks, use of natural resources, mass media, public works, the rice and corn industries, and most of the professions.

Restrictions on foreign ownership
Full foreign ownership is allowed for enterprises that export 70% of production, pioneer enterprises (which produce goods or use technology not already established in the Philippines), and for enterprises in specified export processing zones. Otherwise, maximum foreign ownership is 40%.

Other restrictions
None.

Restrictions on use land use and ownership
Ownership of land is restricted to Filipino citizens, but foreigners can lease land. Businesses with at least 60% Filipino ownership can buy land. Foreigners can buy buildings on leased land.

Cites

Omnibus Investments Code of 1987.

Comments

Major changes have been enacted since the 1986 revolution.

Portugal

Date of source
March 1981

Government attitude toward foreign investment
Foreign investment is considered essential. The investor must show that the investment will benefit the economy.

Foreign exchange controls
The Bank of Portugal or the Institute of Foreign Investment must grant advance approval for foreign exchange transactions.

Investment registration
A direct investment permit must be filed with the Institute of Foreign Investment.

Repatriation
Repatriation is allowed but can be delayed by the central bank.

Restricted industries
Any large investment requires government approval. Industries closed to private investment include public utilities, transportation, port authorities, petroleum refining, fertilizers, munitions, and cement. The state holds title to all mineral and natural resources and will authorize their development only under special concessions.

Restrictions on foreign ownership
There are no foreign ownership restrictions in industries open to the private sector. The government encourages joint ventures, and negotiates the percentage of foreign ownership on a case-by case basis.

Other restrictions
Use of local labor and use of natural resources is subject to state approval.

Restrictions on use land use and ownership
A nonresident corporation cannot directly acquire real estate.

Cites
Decree Laws 183 (1970), 348 (1977), 436 (1980), 46, 53, 54, 536 (1977) and 519-II (1979)

Singapore

Date of source
July 1988 and 1991

Government attitude toward foreign investment
The Singapore government actively encourages foreign investment.

Foreign exchange controls
Exchange controls were progressively relaxed and eventually eliminated in 1978.

Investment registration
There are no registration requirements for foreign investment.

Repatriation
Foreign investors are not restricted as to repatriation of capital, loans or income.

Restricted industries
The government maintains a monopoly in the manufacture of arms and ammunition. The supply of electricity, gas and water is also under public control.

Restrictions on foreign ownership
There are no rules on foreign ownership for businesses operating in Singapore, with the following exceptions. Licenses are required to undertake work in banking and insurance. Ownership of companies publishing newspapers is subject to legislative control.

Other restrictions
None.

Restrictions on use land use and ownership
Approval is required to purchase certain types of residential property.

Comments
Businesses financed with foreign investment generally do not compete with local firms as they operate in different areas and markets.

Taiwan

Date of source
July 1989

Government attitude toward foreign investment
The government welcomes foreign investment. Recognizing that foreign companies introduce healthy competition into local markets, the government has removed many restrictions on foreign investment.

Foreign exchange controls
Foreign exchange transactions are processed through the central bank. Controls on inward remittances were imposed in 1987. Enterprises are not allowed to bring foreign exchange into Taiwan without central bank approval. Foreign exchange controls on outward remittances were greatly relaxed in July of 1987.

Investment registration
Foreign investors are required to submit an investment plan to the Ministry of Economic Affairs.

Repatriation
Subsequent to the 1987 relaxation of exchange controls, enterprises may remit payments of up to US$5 million per year.

Restricted industries
Although the range of businesses open to foreign investment has been broadened considerably, there are still 54 industries in which foreign investment is prohibited. In addition, there are 52 industries for which the government reviews each investment proposal.

Restrictions on foreign ownership
In some cases the government requires a certain percentage of local ownership, for example, security brokers and construction companies.

Other restrictions
Foreign investors are currently not permitted to invest in the local stock market.

Restrictions on use land use and ownership
None.

Cites

Statutes for Foreign Exchange Control and Investment by Foreign Nationals. The legislation is often neither detailed or specific. Only appropriate authorities can provide interpretation.

Turkey

Date of source
August 1985

Government attitude toward foreign investment
A principal goal is to increase foreign exchange.

Foreign exchange controls
The physical import and export of Turkish currency is not allowed. Foreign-owned banks are required to conduct foreign currency transactions through the central bank.

Investment registration
Each foreign investment proposal requires a permit granted by the foreign investment department after a careful review of the investor's feasibility study. Import of foreign labor and resources is also examined. Approval is granted if it appears the proposal will increase foreign currency earnings, imports of foreign exchange, and industrial production.

Repatriation
Repatriation is allowed subject to the investment permit.

Restricted industries
Investments in manufacturing, agriculture, banking, mining and tourism are expected to be operated jointly with a Turkish partner. In certain cases the Turkish partner must be the appropriate state-owned enterprise. The total investment for a project is limited to $US 50 million. The minimum investment is $US 50 thousand. Exceptions are granted for large tourism projects which service foreign demand (for example large hotels). Mining licenses are granted for periods of 10 to 99 years. For manufacturing projects, at least 50% of the financing must come from abroad.

These ownership and investment restrictions also apply to the petroleum industry, but government approval is often granted more quickly. The state operates monopolies in tobacco and alcohol. To qualify for foreign investment in select industries a certain amount of production must be exported; food industry-30%, clothing-50%, furniture-60%, buses-40%, lorries-25%, metal goods-30%.

Restrictions on foreign ownership
Law 6224 covers investments in a wide range of manufacturing industries and in banking, agriculture, mining and tourism. Generally such investments will be

operated jointly with a Turkish partner with a foreign interest of 10 to 49 percent. However, this limit may be exceeded in appropriate circumstances.

Restrictions on use land use and ownership

For tourist sites outside a city a special permit is required. Foreigners are permitted to lease government owned-land.

Other restrictions

None.

Cites

Laws 6224 with Decree 8/168, 6326, 1567 with Decree 30

Venezuela

Date of source
October 1984

Government attitude toward foreign investment
The government encourages foreign investment.

Foreign exchange controls
The central bank supplies foreign currency necessary for remitting capital and profits. Central bank approval is granted quickly and does not inhibit foreign investment.

Investment registration
New foreign investments require approval from the Superintendent of Foreign Investments. Investments specified in contracts with the government in tourism, construction and defense do not require registration. Foreign investments exceeding 20 million bolivars require special approval.

Repatriation
Profits may be remitted abroad up to 20% of the approved investment. Details must be submitted to the Superintendent of Foreign Investments.

Restricted industries
Certain activities are restricted to enterprises with at least 80% Venezuelan ownership. These industries include telecommunications, postal service, water and sewage, electricity, television and radio, newspapers, local transportation, the sale and marketing of goods, and licensed professional services in consulting and design. All activities related to petroleum or uranium are closed to private investment.

Restrictions on foreign ownership
None, but companies with less than 80% national ownership cannot enter certain industries specified above.

Other restrictions
A foreign investment must meet at least two of a list of conditions such as: At least 30% Venezuelan content for products to be exported, job creation, introduction of technology, and investment in Venezuelan resources.

Restrictions on use land use and ownership
None.

Cites

The investment rules fall under the Andean pact originally signed by Columbia, Chile, Peru, Ecuador and Bolivia. Venezuela joined in 1974.

Sources

Bureau of National Affairs
Tax Management, Business Operations Series

DRT International,
International Tax and Business Guides

Deloitte & Touche,
A Review of the Investment Policy of the Republic of the Philippines

Price Waterhouse,
Doing Business Series