FOREIGN INVESTORS IN LATIN AMERICA:
(Some Political, Economic, and Legal Dimensions)

THE POLITICS OF OIL IN VENEZUELA. By FRANKLIN TUGWELL. (Stanford, CA: Stanford University Press, 1975. Pp. 210, $8.95.)

U.S. INVESTMENT IN THE FOREST-BASED SECTOR IN LATIN AMERICA: PROBLEMS AND POTENTIAL. By HANS M. GREGERSON and ARNALDO CONTRERAS. (Baltimore, MD: Johns Hopkins University Press, 1975. Pp. 113. $4.50.)

EXPROPRIATION IN THE AMERICAS: A COMPARATIVE LAW STUDY. Edited by ANDREAS F. LOWENTHAL. (New York: Dunellen, 1971. Pp. 315. $15.00)

EXPROPRIATION POLITICS. By JESSICA PERNITZ EINHORN. (Lexington, MA: Lexington Books, D.C. Heath, 1974. Pp. 148. $13.50.)

THE EMBATTLED COLOSSUS: ECONOMIC NATIONALISM AND UNITED STATES INVESTORS IN LATIN AMERICA. By ROBERT H. SWANSBROUGH. (Gainesville, FL: University Presses of Florida, 1976. Pp. 251. $12.50.)

During the nineteenth century and roughly the first one-third of the twentieth, the foreign investor in Latin America had a more or less free hand; in fact, in more than one country he stood above the host country government. Often the foreign investor—particularly the U.S. investor—could count on vigorous assistance from his own government if a host country acted or threatened to act in a way that was unfavorable to him. Such conditions no longer prevail. During the last several decades a good deal of antipathy has developed toward the foreign investor; some have had their properties in Latin America expropriated, and those who have not, have had their business operations subjected to a variety of regulations. Many investors now feel uncertain about the future of their operations in Latin America. The books included in this review examine some of the many political, economic, and legal aspects of foreign investment—and especially U.S. investment—in contemporary Latin America.

The Politics of Oil in Venezuela is a thorough, well-researched, and well-written case study of the efforts of successive Venezuelan governments to exert control over the foreign-owned oil companies operating in their country. It provides both description and analysis of the policy goals and strategies of the Venezuelan government vis-à-vis the companies, the companies' efforts to retain their position and revenues, the interplay between the government and the companies, and the impact of the government's efforts on the country's economic and political development. In addition, the book provides a good deal of insight into the working of the post-1958 political process in Venezuela.

Particularly interesting and valuable is Tugwell's description of the relationship between the foreign oil companies and the Venezuelan government, a relationship in which the balance of bargaining power shifted over time from the former to the latter. Before and for a time after they made their initial investment, the oil companies were dominant. They were able to make demands on a very compliant Venezuelan government, but were subjected to few if any demands in return. The companies' position of strength rested on their technical knowledge and capital—resources that the Venezuelan government did not possess at the outset of the relationship. After the investment had been made and operations were underway, the locus of bargaining power in the relationship gradually changed. With their capital invested in an operation that would yield profits only after a period of time and from which easy withdrawal was not possible, the companies lost some of their original leverage. They lost much more as the Venezuelan government obtained increasing amounts of information about the petroleum industry, as Venezuelans acquired the technical and managerial skills necessary for operating the industry, and as the government acquired capital. Of course, the companies did not meekly accept the shift in bargaining power or the controls that the government imposed on them. However, they were not, in the long-run, very successful in countering the government's actions. Tugwell states: "Although the managerial skill of oilmen in handling complex economic decisions may be enormous, and although they show no lack of willingness or capacity to intervene directly in domestic affairs, their ability to skillfully orchestrate their influences is less than might be expected" (p. 159). As the balance of power moved to the Venezuelan government, governmental regulation and, later, takeover of the companies became technically feasible and politically and economically attractive to many Venezuelans.

While the Gregersen and Contreras book presents much material that is concerned entirely with the forest-based sector in Latin America and U.S. investment in it, it provides some material that is of interest to the general reader. Most informative, probably, is their treatment of host country and foreign investor interaction in the making of new investment in Latin American countries.

The authors identify three main types of interaction situations when a new investment is under discussion: (1) direct conflict—the minimum requirements of both parties are met; (2) negotiable—the minimum requirements of both parties are met although there is not total initial agreement on all points, and the unresolved points are left to and are amenable to resolution by bargaining between the parties; and (3) complementary—the minimum requirements of both are met and the objectives of both parties are wholly compatible from the outset. Only the second and third situations hold the potential for further interaction beyond initial contact. Although the authors present no statistical information on this, one suspects that a large portion of host country-foreign investor interaction is of the direct conflict sort while only a very, very small portion is complementary; probably most of the interaction that goes beyond initial contact and almost certainly most of the interaction that leads to an investment being made are negotiable situations.

According to the authors, a major obstacle to new U.S. investment in the forest-bound sector is the Latin American bureaucratic maze. It confronts the potential investor during initial contact and while the contract is being negotiated, and it confronts the investor after business is in operation. Gregersen and Contreras attribute the bureaucratic maze to Latin American fears that "the [foreign] investor will take advantage of the country in some way" (p. 28). That concern is undoubtedly *a* reason, but it is not *the* reason; to it must be added what might be termed the bureaucratic *tendency* found in most, if not all, Latin American countries.

However, the bureaucratic maze is not the only reason why new U.S. investment in Latin America's forest-based sector is low. Among the other reasons identified by the authors are: corporate objectives that do not square with those of the host country; host country demands for a degree of control over enterprises and a share of profit that goes beyond what the foreign investor is prepared to meet; increased labor and other costs. (One cannot help but wonder if the same factors deter new investment in other sectors.)

Gregersen and Contreras also explore foreign investment failures in the forest-based sector, i.e., cessation of operations that were underway and decisions not to complete planned investments after expending some funds. According to the findings of a survey of seven projects, the main causes of failure were: changes in host country policy and uncertainty about future host country policy; inadequate information; cost-raising technical problems; marketing problems; changes in corporate policy; lack of promised host country support or services; failure to seek or heed local advice; and lack of foreign investor control over or interest in a project.

The book edited by Lowenthal is a study of the legal aspects of expropriation and is most likely to appeal to legal scholars; however, it has value for others. The various essays make clear that there is no one America-wide or even Latin America-wide law and practice of expropriation. They describe expropriation law, historical and contemporary, in seven American countries—Argentina, Brazil, Chile, Mexico, Peru, Venezuela, and the United States. Further, in Lowenthal's opinion, the expropriation laws of these Latin American countries are outmoded. He declares that "each of the papers from Latin America in this volume observes that the civil codes represented a nineteenth-century liberal and individualist philosophy which appears equally out of date in the countries moving to the right . . . and the countries moving to the left" (p. 311).

The Einhorn work deals with the U.S. response to expropriation in Latin America. More specifically, it explores the United States' response to Peru's 1968 expropriation of the International Petroleum Company (IPC) and President Nixon's 1972 policy statement on expropriation.

U.S. law—the Hickenlooper Amendment to the Foreign Assistance Act of 1962 and similar amendments to other U.S. legislation—provides for the termination of bilateral assistance to a country that fails to make provision for compensation within six months after expropriating a U.S. investment. Peru did not provide for compensation within six months of the IPC expropriation, nor did the United States impose sanctions despite the fact that the Hickenlooper Amendment virtually requires that they be applied automatically. Yet, the same presidential administration declared in 1972 that "in future cases of expropriation without compensation it would be the 'presumption' that no new bilateral economic benefit would be extended to the expropriating country, and that U.S. government support would be withheld from loans to that country by multilateral development banks'' (pp. 1–2). That declaration, when coupled with U.S. inaction in the Peruvian case, confronts the observer with a puzzling picture.

Einhorn explains the contradictory acts in terms of bureaucratic politics, a concept elaborated by Allison in *Essence of Decision* and Halperin in *Bureaucratic Politics and Foreign Policy*. According to the bureaucratic politics concept, the executive branch of the U.S. government is in no way monolithic. It is comprised of many entities, each with its own norms, perspectives, and goals: Each is subject to its own set of outside influences, each has differing and fluctuating influences within the government, each has differing resources. Further, it is often unclear which of two or more agencies within the executive branch is appropriate or competent to deal with an issue. This produces bureaucratic infighting and (depending on which entity ''wins out'') quite different responses. In the case of expropriation, both the Department of State and the Department of the Treasury could claim to be the appropriate agency. The two have some similar and some different views on expropriation. As Einhorn puts it: ''No one in State or Treasury accepts a situation in which U.S. investors are discriminated against in foreign countries. They disagree, however, on what should be done in such cases of discrimination'' (p. 3). In the IPC expropriation, the issue was handled mainly by the Department of State, an agency whose prime concern is maintaining good relations with other countries—something that would not have been achieved if Hickenlooper Amendment sanctions had been imposed. The Treasury Department, an agency that is more concerned with domestic economic well-being than with the maintenance of good relations with other countries, was the main force in the 1972 policy statement. Two factors did much to give the Treasury Department ascendance in 1972: casting expropriation as a domestic economic concern, and influence within the executive branch of the incumbent Secretary of the Treasury.

On the basis of data collected and the analysis made, Einhorn offers a generalization about U.S. reaction to and policy regarding future expropriations: ''If the President is advised to keep expropriation policy in the State Department, then that policy will be considerably softer in response to confiscations than if the responsibility is given to Treasury. More generally, if the State Department is headed by a strong Secretary with proprietary interest in foreign economic policy, that policy will be formulated in a framework far more responsive to foreign governments' concerns than if the policy is controlled by a strong Treasury'' (p. 124). In other words, the U.S. response to a particular expropriation or to expropriation in general is likely to depend on which executive branch handles the issue. Einhorn's analysis is based on the printed record plus fifty-five interviews with persons involved in the decision-making process.

As the subtitle imples, *The Embattled Colossus* is a study of economic nationalism—which is a potent force throughout Latin America—and the reaction of United States investors and government to it. Swansbrough uses the definition of economic nationalism employed by William Rappard, who describes it as ''a doctrine destined to serve the nation by making it not richer, but freer, by

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promoting not its material welfare, but its independence of foreign influences" (as quoted on p. 11). This view goes far toward explaining why a Latin American government may take action against U.S. and other foreign investors who have an adverse impact on the country's economic well-being. Swansbrough holds that external economic domination and intervention from abroad provided the basis for economic nationalism in Latin America; that economic nationalism originated with the emotional reaction to this phenomenon.

Swansbrough's subsequent discussion makes very clear the divergence between Latin American and United States attitudes regarding private enterprise, a divergence that makes tension and conflict almost inevitable given the high level of interaction between the United States, on the one hand, and nearly all of the Latin American countries, on the other. Next the book takes up what Latin Americans regard as the costs of private foreign investment—e.g., fear of economic domination, fear of political interference, and belief that foreign investment is a drain on balance of payments. The benefits of foreign investment, from the United States perspective, are identified, too. The book also reviews the post-World War II policies of the United States dealing with foreign private investment in Latin America.

The final two substantive chapters report the findings of a 1970 survey of members of the Council of the Americas, an organization composed of roughly 85 percent of the U.S. corporations with holdings in Latin America. From the data coming to him from the survey, Swansbrough found little or no evidence to suggest that economic nationalism and the actions taken or contemplated are prompting U.S. investors to withdraw from Latin America. He reports: "The American business community's perception of the antipathy toward foreign capital in Latin America had not resulted in a frantic rush to disinvest in the region. . . . When respondents were asked whether their firm was planning to significantly expand or decrease its investment in Latin America in the near future, the prevailing attitude seemed to be a cautious increase in the level of investment in the hemisphere" (p. 202). Although it may be somewhat unexpected, the survey found that fear of expropriation did not rank at or even near the top of investor concerns. The survey results show that "the issue that had the highest salience to the respondents was their concern over Latin American restrictive economic policies, closely followed by worry over the political instability of the region. . . . Next came their concern over hostility toward private enterprise, both indigenous and foreign, and then that endemic problem in Latin America—inflation. . . . The respondents ranked the danger of expropriation very low on the list of adverse considerations affecting the investment climate of the region" (p. 194). Most of the U.S. investors, according to the survey, regarded the Hickenlooper Amendment as ineffective, unworkable, and as an irritant to Latin American governments.

These five books are a small part of the large and growing body of literature on foreign investment in contemporary Latin America. The subject has not been exhausted, however. There is need for more research on both the political and economic aspects of foreign investment. More case studies of host country-foreign investor relations—and the case studies should not be confined

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to those relationships ending in expropriation—are needed to gain a more complete picture of the dynamics of these relationships: Does the nature of host country-foreign investor relations vary depending on the sector of foreign investor activity? Are there differences in the nature of those relations that end in expropriation and those that do not? Are there any country-by-country variations in host country-foreign investor relations? Much more research is needed on the attitudes of foreign investors, host country decision-makers, and other host country elites. It would also be informative if these studies were not confined to U.S. investors and included analyses of Latin American versus Western European and Japanese investors and investments.

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