

## Mexico

### Foreign Investment Law (1993)

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# Foreign Investment Law

## Preamble

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Current Text

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CARLOS SALINAS DE GORTARI, Constitutional President of the United Mexican States,  
to its inhabitants

That the Congress of the Union, has served to address the following

Decreto

THE CONGRESS OF THE UNITED MEXICAN STATES, DECREES:

## Title I. General provisions

### Chapter I. On the purpose of the Law

#### Article 1

This law is of public policy and for general adherence throughout the Republic. Its purpose is to establish rules to attract foreign investment to the country and promote its contribution to national development.

#### Article 2

For the purposes hereof, the following terms shall have the following meanings:

1. Commission: the National Foreign Investment Commission;
2. Foreign investment:
  - a. Participation by foreign investors, in any percentage, in the capital stock of Mexican companies;
  - b. Investments by Mexican companies in which foreign capital has majority interest; and
  - c. Participation by foreign investors in activities and acts contemplated herein.
3. Foreign investor: an individual or entity of any nationality other than Mexican, and foreign entities with no legal standing;
4. Registry: the National Foreign Investment Registry;
5. Ministry: the Ministry of Economy;
6. Restricted Zone: a strip of the national territory one hundred kilometers wide along the borders and fifty kilometers wide along the coast, as referred to in Section I of Article 27 of the Political Constitution of the United Mexican States; and

7. Foreigners Exclusion Clause: an express agreement or covenant forming an integral part of the corporate by-laws and setting forth that such corporations shall not admit, directly or indirectly, foreign investors or corporations with foreigners admission clause, as partners or stockholders.

### **Article 3**

For the purposes hereof, investments made in this country by foreigners with the stay status of permanent residents shall be considered Mexican investment, except those made in activities contemplated in Titles One and Two hereof.

### **Article 4**

Foreign investment may participate in any proportion in the capital of Mexican companies, acquire fixed assets, enter new fields of economic activity or manufacture new product lines, open and operate establishments, and expand or relocate existing establishments, except as otherwise provided herein.

The rules for the participation of foreign investment in the activities of the financial sector provided for in this Law shall be applied without prejudice to those established by the specific laws for those activities.

For the purpose of determining the foreign investment percentage in economic activities subject to certain maximum limits of foreign participation, foreign investment indirectly conducted in such activities through the stock of Mexican companies with a majority Mexican investment shall not be taken into account as long as such Mexican companies are not controlled by the foreign investment.

[...]

## **Chapter III. On activities and acquisitions under specific regulations**

### **Article 8**

A favorable resolution by the Commission is required for foreign investment to participate in a percentage higher than 49% in the economic activities and companies referred to hereafter:

1. Port services in order to allow ships to conduct inland navigation operation, such as towing, mooring and barging.
2. Shipping companies engaged in the exploitation of ships solely for high- seas traffic;
3. Concessionaire or permissionaire companies of air fields for public service;
4. Private education services of pre-school, elementary, middle school, high school, college or any combination;
5. Legal services;

6. Repealed by an Order published in the Official Gazette of the Federation on January 10, 2014;
7. Repealed by an Order published in the Official Gazette of the Federation on January 10, 2014;
8. Repealed by an Order published in the Official Gazette of the Federation on January 10, 2014;
9. (Repealed by an Order published in the Official Gazette of the Federation on July 14, 2014);
10. (Repealed by an Order published in the Official Gazette of the Federation on August 11, 2014);
11. (Repealed by an Order published in the Official Gazette of the Federation on August 11, 2014);
12. Construction, operation and exploitation of general railways, and public services of railway transportation.

#### **Article 9**

A favorable resolution from the Commission is required for foreign investment to participate, directly or indirectly, in a percentage higher than 49% of the capital stock of Mexican companies when the aggregate value of the assets of such companies at the date of acquisition exceeds the amount determined annually by such Commission.

[...]

## **Title VIII. Penalties**

[...]

#### **Article 38**

Infringements to the provisions under this Law and its regulatory provisions shall be subject to the following penalties:

1. If the foreign investment engages in activities, acquisitions or any other acts which require a favorable resolution from the Commission, without having obtained such resolution previously, a fine ranging from one thousand to five thousand wages shall be imposed;
2. If foreign companies regularly engage in business acts in the Mexican Republic, without having obtained prior authorization from the Ministry, a fine ranging from five hundred to one thousand wages shall be imposed;
3. If acts in violation to what is set forth in this Law or its regulatory provisions on the matter of neutral investment are performed, a fine ranging from one hundred to three hundred wages shall be imposed;

4. In case of non performance, untimely performance, submittance of incomplete or incorrect information with respect to the registration, reporting or notice obligations with the Registry on the part of the obligated individuals, a fine ranging from thirty to one hundred wages shall be imposed;
5. If fraud is incurred in order to allow the enjoyment or disposal of real estate in the restricted zone by foreign individuals or entities or to Mexican companies which do not have foreigners exclusion clause, in violation to what is set forth by Titles Two and Three hereof, the violator shall be sanctioned with a fine of up to the amount of the transaction; and
6. Any other violations to this Law or to its regulatory provisions shall bear a fine ranging from one hundred to one thousand wages.

For the purposes of this article, "wage" shall be understood as the daily general minimum wage in force in the Federal District at the time in which the violation is determined.

For the determination and imposition of any penalty, the interested party shall be previously heard and, in case of pecuniary penalties, the nature and seriousness of the violation, the earning power of the violator, the time elapsed from the date the obligations should have been performed and their compliance or regularization, and the total value of the operation shall be taken into consideration.

The Ministry shall have the authority to impose penalties, except for the violation referred to in Section V of this article and others related to Titles Two and Three, which shall be applied by the Ministry of Foreign Affairs.

The imposition of penalties referred to in this Title shall be without prejudice to the appropriate civil or criminal liabilities.

[...]

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