

Foreign Investment

The Ministry of Foreign Investment and Economic Cooperation (MINVEC in Spanish) with delegations in the 14 provinces of Cuba, is the Entity of Cuban State Central Administration that is in charge of regulating, proposing and controlling all that concerning the process of Foreign Investment in the country as well as Cuban Enterprises abroad. This body is also in charge of elaborating the Cuban legislation regarding this subject. Among Its main functions are:

- Assessment and Managing of Foreign Investment Projects in Cuba and Cuban enterprises abroad previously identified.
- Methodological Instruction of negotiation processes defined to constitute economic associations or any other form of Foreign Investment.
- Assessment of projects related to the creation of International Economic Associations.
- Controlling the achievement of those proposed objectives stated on the basis and principles for economic associations between Cuban and Foreign entities.
- Implementation of Cuban Economic Collaboration Policy, regulation and control of that development related to technical assistance provided and received by Cuba.
- Preparation, Negotiation and Signing of agreements with foreign official institutions associated with Foreign Investment.

Characterizing Foreign Investment

Direct Foreign Investment in Cuba is conceived as a complement to the development national resources, and it is designed to search new markets abroad, competitive technologies and financing (with a long-term objective mainly)

The Economic Policy applied today to the authorization of new business under the form of Foreign Investment that appear on the Cuban Legislation, is in line with the principle of high selectivity and it is associated with projects representing national interest with a significant economic and social impact. Accordingly, business projects of interest are those involving important investment flows towards development national objectives or those with social impact on the country.

Through the implementation of policies and specific measures related to Foreign Investment, the foreign investor may deal with an adequate atmosphere which offers security and protection, which is at the same time in accordance with the policies of technological and industrial boost of the nation. This process is an analysis of the establishment of mechanisms and incentives that may allow attracting investment to those places representing an indicative benefit for the country.

Nowadays, a top priority is the one referred to the development of projects that stimulate the investment of Cuban enterprises with competitive advantages abroad.

In June, 1992, a reform in the Constitution, which among other elements, transformed the constitutional framework regarding property due to the acknowledgment of joint-venture enterprises as a form of property;

and on the other hand, it eliminated the irreversibility of state property in those exceptional cases, in which the partial or total transmission of an economic objective is used with national development purposes and without affecting the political, social and economic principles of Cuban State, previous authorization of the Council of Ministers or Its Executive Committee.

In order to foster this process and taking into account the implementation of Decree 50/82, in 1995 a new legislation for foreign investment was passed (Law No. 77) which responds to international tendencies. Among its regulations are:

- Foreign investments may adopt the form of joint-venture enterprise, international economic association contract and totally foreign capital company. Public corporations are created.
- Only two taxes are included: income tax and tax on the wages, which amount to 30% and 25% respectively for joint-societies.
- Free repatriation of dividends, with additional taxes exempt of payment.
- It is authorized exclusively by the Executive Committee of the Council of Ministers or by a Commission designated for that purpose. Once the economic and legal documentation regarding the negotiation proposal has been presented, a 60 days period (natural days) is established in order to notify the decision.

In 2005, 258 International Economic Associations (AEI in Spanish) were constituted related to the fields of mining, oil prospecting – extraction, tourism, construction and several industries (food industry, light industry, steel, metal and iron industry and those concerning technologies of information and communication)

In recent years new sectors have been added to foreign investment, which demonstrates the qualitative development this process has reached. An example of this is represented in the fact that we have developed negotiations in energy industry, gasification, substitution of kerosene consumption; financial sector; cigars commerce; aqueduct system and water supply to the capital of the country. Additionally, important negotiations have been authorized in cement industry, civil aviation, and industries involving the production of paints, naval repairs, and buses assembling. Likewise, Joint-Venture Enterprises have been created so as to achieve a development in Tourist Centres of Cuba.

The countries with a great number of businesses in the country are: Spain, Italy, and Canada. These countries constitute the 70% of all the associations; the European region is playing an important role in this total.

As a result of the dynamics which has characterized the foreign investment process in Cuba, in 2000, with the Agreement 3827 issued by the Executive Committee of the Council of Ministers coming into effect, the procedure to arrange Cooperated Production Contracts of goods or the provision of services, as well as Hotel and Productive Managing Contracts between Cuban enterprises and foreign natural or legal persons (an individual, a company and any other body of persons) was established. This Agreement created the basis through which new forms of Foreign Investment will be defined in addition to those stated in Law 77.

The practice and experience acquired through the implementation of these forms of investment enumerated on Article 3827/00, with favorable economic results for the national economy, determined the promulgation in 2004 of Agreement 5290/04, by the Executive Committee of the Council of Ministers. The said agreement consolidated the regulations governing the Contracts for a Cooperated Production of goods and services as well as for a Hotel and Productive Managing.

The advantages of the forms of investment enumerated by Agreement 5290 are: the dynamic in authorizing the different negotiation structures in relation to the forms of investment enumerated by Law 77 in 1995, as well as the flexibility in their implementation, contributing to the development of business with small and medium-sized enterprises, representing therefore, an opportunity for more complex association structures such as those mentioned on Law 77.

In virtue of Agreement 5290, it will be defined that:

1-Contract for Cooperated Production of Goods and Services:

- Contract between an enterprise, Cuban state entity or commercial society with totally Cuban capital in correspondence with its social objective or mission, and a foreign natural or legal persons (an individual, a company and any other body of persons) with the aim to develop a defined production of goods and services for the national market or for exportation.
- The foreign party is to contribute or finance or both of them, technology, raw material, equipment, non-elaborate products and technical assistance in exchange of the price set for each of the said concepts, taking the commercialization of the production or services as a starting point.

2-Contract for Productive and/or Services Managing

- Contract through which, an enterprise or Cuban entity with legal status or totally Cuban capital commercial society contracts a foreign legal person to manage one or several lines of production, a facility linked to a production or services, or some of the activities made in these installations, for a determined period, in exchange of the price mutually set, which will be conditional on the profits, taking into account indicators negotiated.
- In these contracts, the foreign party shall provide *know how*, technology or market based on its industrial or commercial experience in the kind of activity to be managed.

3-Contract for Hotel Managing

- Agreement between the titleholder of a hotel and a professional hotel managing company (manager), through which the manager takes on the responsibility with the titleholder's approval to assume and efficiently manage those services offered by the hotel in exchange of the payment of fees; and without transferring the property or any other real right of the hotel.

Taxes, rates and fiscal contributions, taking into account the forms of foreign investment, will be assumed independently by each part, according to their obligations.

In 2005, 98 Cooperated Production Contracts were in effect. These contracts were signed in fields related to metal and light industries. The industrial sector had 9 Managing Contracts, mainly concentrated in metal industry, whereas tourist sector had 49 Hotel Managing Contracts associated.

Cuba as an Investment Center – Comparative Advantages

In addition to the attractive legal situation, the comparative advantages are as follows:

- Workforce highly qualified
- Population Health indicators
- Adequate infrastructure, more than 95 % of electrification in the territory
- Political and Social Stability
- Incorporation of Cuba into the Region (Latin American Integration Society, ALADI in Spanish; Caribbean Community, CARICOM; Caribbean States Association, AEC in Spanish)
- Foreign investors may enjoy full protection and security
- Favorable geographical location: Cuba is centered in a expanding market with important commercial routes
- Natural Resources
- Availability and Industrial Culture
- Development and government support for Research and Development activities
- Agile and reliable system regarding copyright
- The Signing of 62 Agreements with 71 countries for Promotion and Reciprocal Protection of Investments (APPRI in Spanish) and 11 Agreements for the Avoidance of Double Taxation