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FOREIGN DIRECT INVESTMENT IN SELECTED CENTRAL AND EASTERN EUROPEAN COUNTRIES AND NEW INDEPENDENT STATES

Policies and Trends in Fourteen Economies in Transition

(ALBANIA, BELARUS, BULGARIA, THE CZECH REPUBLIC, ESTONIA, HUNGARY, KAZAKHSTAN, LATVIA, LITHUANIA, POLAND, ROMANIA, THE SLOVAK REPUBLIC, RUSSIA AND UKRAINE)

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FOREWORD

Private sector development is a key factor in the transformation of formerly centrally-planned economies. As foreign direct investment, by providing capital, market access, technology and management skills, plays an important role in the development of the private sector, it can contribute significantly to the transformation of these economies. In fact, its contribution has generally been rather limited since the beginning of the transition to a market economy. The lack of information on the investment climate in the economies in transition, and in particular, on the legal and regulatory framework, has been one of the major barriers to more significant involvement of foreign investors.

This study presents an overview of the main developments and issues in the area of foreign direct investment in post-communist countries. It reviews the regulatory framework for foreign direct investment in fourteen countries, and analyses foreign direct investment data, in terms of both value and number of registered projects. The study is part of the programme of assistance which the OECD has been providing to the Central and Eastern European countries (CEECs) and the New Independent States of the former Soviet Union (NIS) since 1990. This programme is managed by the Centre for Co-operation with the Economies in Transition (CCET) and carried out in co-operation with the various parts of the Secretariat, including the Directorate for Financial, Fiscal and Enterprise Affairs.

The main contributor to this publication was Frédéric Wehrlé of the Directorate for Financial, Fiscal and Enterprise Affairs. The report is published on the responsibility of the Secretary-General of the OECD.

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Chapter I

Summary

Foreign direct investment (FDI) is an important catalyst for the economic changes in transition economies, offering host countries external resources, technology, management, and access to foreign markets. It is therefore high on the public policy agenda in the transition economies of Central and Eastern European countries (CEECs) and the New Independent States of the former Soviet Union (NIS) (1) and figures prominently among technical assistance activities at the bilateral and multilateral level.

An Overview of the Foreign Direct Investment Legal Framework

In the course of the past four years, reform legislation has been enacted at a prodigious rate throughout the region and most countries have done their best to make things easier for foreign investors.

Among the fourteen countries covered, three groups can be distinguished. In the Czech and Slovak Republics and Hungary, provisions regulating FDI were subsumed into the corporate and other commercial laws for domestic investors and business. They now offer a more sophisticated legal system. Countries such as Romania, Bulgaria, Estonia, Latvia, Lithuania and Russia offer a patchwork of laws, some of which are modern and rather sophisticated. Poland's legislation is somewhat less developed than that of the first group while in Belarus, Ukraine, Kazakhstan and Albania only the basic legal framework for business and foreign investment is in place.

Although all countries have sectorial restrictions or barriers to FDI, more than one-third of them (Bulgaria, the Czech and Slovak Republics, Hungary and Poland) have restricted foreign access in some areas, such as defence, public procurement, financial institutions, energy, aviation and shipping. Typically, the administrative procedures for registration and authorisation of FDI in these sectors are transparent, but in practice often remain cumbersome. However, some countries exercise a greater degree of screening and have established more challenging barriers to FDI. For example, some of the NIS tend to have a more restrictive approach toward FDI (2). Some countries restrict access to certain sectors or to sizeable operations through screening, while actively encourage foreign investment through incentives in certain priority sectors on the other hand. Hungary and the Czech Republic are abandoning the policy of generous tax incentives, mainly because of the exponential growth of tax revenue forgone and their marginal effect on FDI flows (3).

Despite these discrepancies, certain common characteristics of FDI policies can be identified. All countries allow the establishment of joint ventures and fully foreign-owned companies. They have committed themselves to progressively introducing new tax systems and to concluding bilateral agreements on the prevention of double taxation, and they are renegotiating

Intergovernmental agreements on the protection of foreign investment to follow international standards. There has also been an intensive legislative effort for an overall amelioration of the protection of intellectual property.

FDI and Privatisation

All the governments of the region have been eager to develop privatisation programmes and legislation in order to reduce the role of the state as an owner in the business sector and ameliorate the efficiency of the enterprise. Various techniques of privatisation, conventional and non-conventional, have been developed and already implemented in most countries: direct sales to predetermined owners, public auction and public tender are standard methods of privatisation, while the voucher system is a non-standard method. However, legislation varies considerably. Where the transition to a market economy started earlier (the Czech and Slovak Republics, Hungary, and Poland), privatisation is organised by a set of practice-oriented laws, while in other countries privatisation laws and methods are somewhat less developed.

Some programmes and methods reflect caution about the extent of foreign involvement in the privatisation process. Preferential conditions may apply for the employees of an enterprise, and special authorisation is sometimes needed for foreign investors to invest in a given privatised company. Elsewhere, lists of privatised enterprises barred to foreign investment have been established. It may be too early to examine the impact of privatisation policies on FDI performance. Nevertheless, countries can be grouped into three levels of development.

In the first group, which includes countries such as Albania, Bulgaria, Belarus and Kazakhstan, uncertainties exist with respect to privatisation programmes which are likely to discourage foreign investors. In a second group, including Russia, Ukraine and the Czech Republic, privatisation programmes have emphasised distributing vouchers to citizens and/or on preferential treatment for employees. Under the voucher system, inflows of foreign capital have been to some extent limited, as observed to in the former CSFR where foreign investors had only entered 58 joint-stock companies in the context of privatisation by the end of 1992. In the Czech Republic, foreign investors had only entered in 108 projects for privatisation by October 1993.

Hungary falls into a category of its own, with privatisation policies particularly open toward foreign participation. At the end of the first quarter of 1993, about 80 per cent of privatisation had involved foreign capital. It seems that, among other factors, market-based privatisation has been the reason why Hungary has secured the lion's share of foreign capital flowing into the former Communist countries. However, it also appears that opportunities are already diminishing. On the one hand, foreign investment through privatisation represented only a quarter of all investment from abroad in 1992. On the other hand, many of the remaining 1,000 state-owned firms are burdened with large debts or are simply too small to attract foreign investors.

FDI Performance

In terms of number of projects, foreign direct investment in the CEECs and NIS expanded rapidly since 1989. In terms of value, the flows have been less impressive.

At the end of 1989, less than 2,500 projects were registered in the fourteen countries. By the beginning of 1993, the number had grown to over 63,000. Looking at the CEECs and NIS as a whole, almost 26,000 FDI projects had been registered by the second quarter of 1991, over 36,000 by the last quarter of that year and over 64,000 by the beginning of 1993, i.e. almost a two-fold increase between 1992 and 1993.

The most spectacular growth in the number of projects occurred in Romania, from fewer than 1 000 projects in January 1991 to over 7 000 by the end of the year and to over 20 000 by the beginning of 1993. This places Romania ahead of Hungary, where roughly 5,000 projects with foreign participation had been set up throughout the year 1992. Among the Baltic states, the most impressive expansion occurred in Lithuania, where the number of registered projects increased by approximately 1,000 from January 1st, 1992 to October 1st, 1992, followed by Estonia (700 new foreign investment companies had been set up by October 1992), and Latvia (an increase of 500 projects).

In Russia and Ukraine there were only 2,900 and 800 projects, respectively, at the end of 1992. At the beginning of 1993, Russia accounted for over one third of all projects in the NIS and the three Baltic states.

An estimated average of 50 per cent of registered FDI projects are operational in Albania, Bulgaria, the Czech and Slovak Republics, Hungary, Poland and Russia. In world terms, foreign investment in those countries is still rather small. While large investments in value terms have usually been in manufacturing, more and more companies with foreign capital are being established in trade and services. In terms of jobs, foreign investment accounted for about 4.5 per cent of total employment in Hungary last year, for 1.3 per cent in Poland and for less than 0.5 per cent in Russia, Ukraine and the three Baltic states.

The flows of foreign capital do not correspond to the sharp expansion of the number of foreign investment projects. Cumulated flows of FDI in the fourteen economies were estimated at over USD 11 billion at the beginning of 1993. Hungary has attracted more than USD 4 billion, accounting for about 35 per cent of total flows (4).

Investors from the developed market economies of western Europe have played a dominant role in the growth of both foreign investment projects and FDI stocks. Germany was among the top three investor countries in most of the region in 1991 and 1992. Companies from the United States also ranked high among foreign investors, but Japan has been almost absent from the area up to now. Investors from EEC countries have been predominant in Romania and Poland (more than half of total foreign capital) but less present in the NIS. In the Slovak Republic and Hungary, foreign capital originating in the EEC and the EFTA countries accounted for about two-thirds of the total for each of them.

This report reviews policies and trends of FDI in the region as of the fourth quarter of 1993. The approach used in this study is a general one, and intended to provide an overall picture of the legislation relevant to FDI. It includes the legal conditions governing the participation of foreign individuals or legal entities in the capital of firms located within the countries reviewed. Enterprises in which foreign investors have a certain degree of control are here referred to as enterprises or companies with foreign participation or foreign capital, regardless of the degree of control exercised by the foreign investor (minority, majority, full) and the extent of foreign capital involvement. While all reasonable care has been taken in the preparation of this study, it should be stressed that readily available information is not always complete and rapid and continuous introduction of individual reform measures makes it sometimes difficult to keep abreast of the most recent FDI policies. Research for this study began in 1991 before data on the Baltic States as independent countries was available. Therefore for analytical and statistical purposes, the Baltic States are sometimes grouped with the NIS.

The approach is also thematic and comparative, to allow similarities and differences in the FDI regime between countries to be identified. The legislation of each country is examined against a set of criteria, as they are typically used in similar analyses of OECD countries, such as the forms of direct investment available to foreigners, the areas in which foreign investment is targeted, the legal and international guarantees extended to foreign investors, etc.

The study is divided into four chapters. Chapter I provides a brief summary and introduction. Chapter II discusses the legal provisions governing FDI in the ten eastern European countries and four NIS. Chapter III analyses the provisions for privatisation and restitution are reviewed as far as they are relevant for FDI. Chapter IV analyses flows of FDI since 1989.

Notes

(1) CEECs include Albania, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and the Slovak Republic. Selected NIS includes Belarus, Kazakhstan, Russia and Ukraine. For analytical and statistical reasons the Baltic States, Estonia, Latvia and Lithuania, are herein often grouped with the NIS nations surveyed.

(2) In most countries, there is considerable need for improving the implementation process.

(3) Some countries are resorting to direct and more targeted investment incentives.

(4) Data on foreign direct investment in the countries of the region have to be interpreted with considerable caution. They generally do not meet the standards established by IMF and OECD and their cross-country comparability is limited.

Chapter II

Legal and regulatory framework

In the course of the past four years, reform legislation has been enacted at a prodigious rate throughout the region and most countries surveyed have done their best to create an environment conducive to foreign investors. In some countries, the legal environment for FDI has nearly reached standards comparable to OECD countries. Other countries have improved and corrected the original laws on foreign investment. In a latter group of countries, such as the Czech Republic, Hungary, Poland and the Slovak Republic, the provisions regulating FDI were subsumed into the corporate and other commercial laws for domestic investors and business.

1. Foreign investment in corporate capital

In all Central and Eastern European Countries (CEECs) and the New Independent States of the former Soviet Union (NIS) foreign investors may hold up to 100 per cent of a company's capital. However, authorisation may be required in some NIS and CEECs (Kazakhstan, Belarus, Ukraine and Latvia) for large investments.

None of the countries stipulates a minimum level of foreign investment. In Ukraine, however, the Law on Foreign Investment applies only to foreign investment amounting to 20 per cent or more of the original authorised capital or a share of more than US$ 100,000 on the average throughout a calendar year (articles 1 and 2 of the Law).

In all countries minimum legal levels of capitalisation, depending on the type of enterprise, apply to all investors (foreign and domestic).

2. Incorporated enterprises and branches

Two different approaches to foreign business activities are reflected in the area studied: i) local incorporation (i.e., only enterprises established in accordance with host country legislation may set-up on the territory of the host country); ii) branches allowed (i.e., foreign investors may do business as unincorporated branches of companies established under the legislation of the country of origin of the enterprise).

-- In Hungary, Poland and the Czech and Slovak Republics, only incorporated enterprises with their head offices in the host country, and which are formed in accordance with the legislation of the host country, may do business, except in special sectors where branches are allowed. Hungary is planning, however, to adopt the legislative and regulatory framework needed for branch operations within the next five years. Also, within the legal context of the association

agreements between Poland, the Czech Republic, Slovakia and Hungary and the EEC, it is intended to promote FDI through the creation of branches beginning with the second stage of the EC Agreement.

-- In Bulgaria, an unincorporated foreign company may register a branch if it is registered as having the competence to conduct business under the legal system of the foreign country.

-- In Romania, the term foreign investor covers any natural person or legal entity resident abroad or having his place of business abroad and investing in Romania under one or more of the forms provided for under Romanian law.

-- In Albania, the Law on Foreign Investment applies to any legal person that either is incorporated or constituted under a foreign law, or has its seat outside Albania.

-- In Latvia, foreign investors may establish branches.

-- In the two other Baltic states, establishing branches is not possible.

-- In Russia, foreign investors have the right to invest in the form of branches of foreign legal entities.

-- In Ukraine, branches are allowed in the banking sector.

-- In Belarus, enterprises with foreign capital which are already established in the country may freely establish subsidiaries or branches in the country.

-- In Kazakhstan, information about the possibility for foreign investors to set-up a branch is unclear.

3. Forms of FDI

Foreign investors may participate as founders, members or shareholders in several types of economic entities (table 1). Three groups of countries can be distinguished. The first group, offering the broadest variety of forms of investment, includes ten countries: Albania, Belarus, Estonia, Kazakhstan, Ukraine, Lithuania, Hungary, the Czech and Slovak Republics. In Albania, the forms that investment may take have had not yet been legally established at the time of writing this study, which means that those concerned are free to choose the form they prefer. The second group includes countries such as Russia and Latvia, where foreign investment is typically limited to three or four types of companies. Finally, Poland allows foreign investors to do business only within the framework of joint stock companies and limited liability companies.

4. Establishment formalities

All foreign entrepreneurs must comply with the formalities relating to investment and applicable to all (foreign or domestic) investors. Additional obligations exist in a number of countries. They are as follows:

-- In Albania, FDI has to be authorised according to Law no. 7496 of 4 August 1992 on Foreign Investment. Requests have to be made to the Council of Ministers, the Ministry of Trade and External Relations or to the local authorities.

-- In Romania, foreign investors must submit a registration request to the relevant local authorities, who examine the documents produced, the credentials of the investor, the legal form of the investment, the amount of capital invested and the sector concerned. The request has to be submitted to the Romanian Development Agency which replies within 30 days.

-- In Belarus, all enterprises with foreign capital must be registered with the agreement of the local Soviet assembly. Enterprises with more than 30 per cent foreign investment are required to obtain a license in order to be established. In addition, permission of the Belarussian Council of Ministers must be obtained for the registration of certain large enterprises.

-- In Russia, foreign investors must submit a registration request to the Russian Federation Committee on Foreign Investment. Enterprises for foreign investment exceeding 100 million rubles (at the time of adoption of the law), and foreign acquisitions of more than 50 per cent of the votes of shareholders must be registered with the Russian Federal Ministry of Finance (provided there is an approval of the Russian Federal Council of Ministers). The authorised state body should either register a company with foreign participation, or it should communicate any refusal within 21 days of the date of receipt of the application.

-- In Ukraine, in order to enjoy the privileges provided by the Law on Foreign Investment, investors have to register with the Ministry of Finance (instead of with authorities in charge of registering domestic investment). The Ministry of Finance must register foreign investment or disclose the administrative reasons of the denial of registration within three working days (or within 21 days in some cases defined under the law).

Table 1. Forms of investment open to foreigners

Types of company	Country
Joint stock companies	Russia, Kazakhstan, Belarus, Ukraine, Estonia, Latvia, Lithuania, Poland, Hungary, Bulgaria, Romania, Czech Republic, Slovak Republic
Limited liability companies	Kazakhstan, Belarus, Ukraine, Estonia, Latvia, Bulgaria, Poland, Hungary, Romania, Czech Republic, Slovak Republic, Ukraine
General partnerships	Estonia, Lithuania, Russia, Kazakhstan, Belarus, Ukraine, Hungary, Romania, Bulgaria, Czech Republic, Slovak Republic
Limited partnerships	Russia, Ukraine, Lithuania, Hungary, Romania, Bulgaria, Czech Republic and Slovak Republic
Unlimited partnerships	Hungary, Ukraine
Unlimited liability companies	Hungary, Bulgaria
Limited companies with share capital	Hungary, Bulgaria, Czech Republic, Romania, Slovak Republic
Limited public companies with share capital	Hungary
Commercial union	Hungary
Limited economic associations	Belarus, Estonia
Cooperatives	Belarus, Estonia, Latvia, Czech Republic, Slovak Republic, Ukraine, Hungary
Individual enterprises	Latvia, Lithuania, Ukraine
Shareholding associations	Latvia

Note: In Lithuania, if a foreign investor acquires a controlling interest in excess of 50 per cent of the shares in a firm, the firm must be re-registered as a "joint-venture".

5. National treatment of FDI

Under the principle of National Treatment, a recipient country of FDI should accord to foreign controlled enterprises operating in their territory treatment no less favourable than that accorded in like situations to domestic enterprises. Most of the countries surveyed have included the principle in their legislation and foreign persons investing in the country are treated in the same way as nationals. However, all the countries do not completely fulfil the national treatment principle, even though some countries offer better treatment to foreign investors than in others.

Restrictions on foreign investment

In Albania and in Lithuania, all areas of activities are subject to authorisation. Elsewhere, FDI is allowed in all spheres of activity, apart from those sectors of the economy, geographical areas and even capitalisations, which require special authorisation, or are prohibited to foreigners or are state monopolies. This part of the study sets out first to analyse those sectors which are subject to special authorisation and then those in which foreign investment is not authorised. At the end, a table recapitulates, by country, the various sectors which are prohibited or require authorisation.

Sectors subject to special authorisation

Restricting foreign participation in certain sectors is usually intended to protect areas of activity deemed sensitive for the domestic economy even though governments are not always impervious to the idea of keeping foreign investors out for reasons of "national interest" -- in the broad sense. Banking and insurance are the sectors where special authorisation is most frequently required.

Banking

FDI in the banking sector is subject to special authorisation in the Czech Republic, the Slovak Republic, Hungary, Romania, Bulgaria, Albania, Russia, Kazakhstan and Ukraine. In the three Baltic states and Poland a license is needed for foreign investors as for any other domestic investor.

- In Poland, special authorisation is required only as long as FDI takes form of branch or representative office in the banking sector. Authorisation is granted by the Governor of the National Bank of Poland, in agreement with the Minister of Finance.

- According to the Banking Act of the CSFR, which came into force on 1 February 1992, and which has been incorporated into national legislation by the Czech and Slovak Republics, foreign participation in the banking sector is allowed if permission is granted. A foreign

bank must also apply for permission to open a branch in order to perform banking functions.

- In Hungary, foreign participation in the country's financial institutions is unrestricted as long as it does not exceed 10 per cent of the founding capital. If the foreign share of the institution's capital is in excess of 10 per cent, foreign investment is subject to special authorisation (Act of 13 November 1991 on financial institutions). Moreover, no more than 25 per cent of foreign capital are allowed in existing Hungarian banks. In early 1992, there were already 1,000 enterprises with foreign participation in the financial sector (banking and insurance), of which 100 were wholly foreign-owned.

- In Romania, conducting banking operations is subject to obtaining the authorisation by the National Bank of Romania.

- Under the Bulgarian Law on foreign investment of 16 January 1992 any company with foreign ownership wishing to conduct business in the banking sector or take holdings in banking companies must obtain authorisation.

- In Russia, financial services companies with foreign participation must be licensed by the Ministry of Finance. According to additional regulations of 8 April 1993, decisions to issue licences for opening banks with the participation of foreign investment must be confirmed by the Central Bank's Board of Directors. The law on banks and banking activity permits the establishment of wholly-owned foreign banks, banks with foreign participation, and branches of foreign banks.

- In Kazakhstan, financial institutions with foreign participation must be licensed by the Ministry of Finance and the Ministry of Foreign Economic Relations.

- In Ukraine, in order to conduct banking operations, the enterprise with foreign capital must receive a license of the National Bank of Ukraine.

Insurance

The insurance sector is subject to special authorisation in Poland, the Czech Republic, Slovakia, Hungary, Bulgaria, Albania, Russia, Kazakhstan, Ukraine, Estonia, Lithuania and Latvia.

- In Poland, foreign investors may do business in the insurance sector provided that the company with foreign participation meets the conditions required of Polish insurance companies, and that the foreign contribution to the company's capital is equal to at least half of the necessary minimum guaranteed capital. If the foreign investor meets these conditions, he may be granted an authorisation

by the Ministry of Finance. Branches, according to the latest amendments to the Insurance Activity Act of 28 July 1990, may start to operate as of 1999.

-- In the Slovak Republic, the amendments to Act 24 (1991) of the Slovak National Council provide that investors may hold 100 per cent of the capital of an insurance undertaking; provided that they obtain authorisation from the Ministry of Finance. The Act of 26 April 1991, of the Czech National Council contains similar provisions for the Czech Republic.

-- In Hungary, when a new insurance company is set-up, a government permit is required in the event of foreign participation. All 12 insurance companies operating in Hungary were acquired by foreign investors by spring 1992.

-- In Bulgaria, the January 1992 Law on foreign investment stipulates that foreign investors wishing to conduct business in the insurance sector must obtain authorisation. Under the new Insurance Law, which abolishes the state monopoly in insurance, foreign insurers may enter the market only through a branch office registered in Bulgaria and, like local investors, are licensed by the department of insurance supervision in the Finance Ministry.

-- In Russia, under the July 1991 Act and a decree adopted in June 1991, insurance companies with foreign capital had to be licensed and only joint ventures could be active. The Law on Insurance adopted on 27 November 1992 places new restrictions on insurance companies established by foreign legal and physical persons. Insurance companies with foreign participation can only be established in the form of limited partnerships or shareholding companies with a foreign share not exceeding 49 per cent. In addition, the Law does not permit insurance brokerage on behalf of foreign insurance companies (unless such activities are allowed by agreements signed by the Russian Federation). Furthermore, it seems that insurance companies with foreign capital cannot be directly involved in manufacturing, trade, intermediary and banking activities.

-- In Kazakhstan, financial institutions with foreign capital must be licensed by the Ministry of Finance and the Ministry of Foreign Economic Relations.

-- In Ukraine, insurance companies with foreign participation must be licensed by the Ministry of Finance.

Other spheres of activity and operations

Poland, the Czech and Slovak Republics, Bulgaria, Russia, Ukraine, Estonia, Latvia, Lithuania also make foreign investment in a number of other activities subject to authorisation.

-- In the Czech and Slovak Republics, international trade and casinos require special authorisation.

-- In Hungary, a number of restrictions apply to foreign investment in transport sector. Navigational rights for inland waterways are reserved to vessels flying the national flag, the right to carry out transport of persons on domestic public road is reserved to national transporters and authorisation is required for foreigners to engage in domestic commercial aviation. In addition, reciprocity conditions apply to foreign participation in the air transport sector.

-- In Bulgaria, the Act of January 1992 stipulates that authorisation must be obtained for foreign investment and for companies in which foreigners have controlling interest for activities in the defence industry or in the arms and defence equipment sector, and in natural resource prospecting, development or extraction in certain parts of the country (Article 5.3 of the Law of 16 January 1992). Article 6 of the Law provides that the Council of Ministers may alter and, if necessary, lengthen the list of activities requiring authorisation. These changes have to be published in the Bulgarian Official Journal.

-- In Poland special authorisation -- granted by the Minister of Privatisation -- is required for foreign investment to be made in the management/operation of seaports and airports, dealing in real estate, military industry which is not covered by licensing requirements, wholesale trade in imported consumer goods and provision of "legal services".

-- In Latvia, permission by the Council of Ministers or by the institution authorised by it is necessary if the foreign investor: i) invests in a state-enterprise; ii) obtains control over an enterprise of the Republic of Latvia; or iii) founds a new enterprise whose capital (statute fund) exceeds one million US$ or an equivalent sum in other convertible currencies.

-- In Russia, the Federal government may at any time lengthen the list of activities requiring authorisation. According to the current legislation and regulation, large-scale investment projects may require a special study on the health or environmental consequences of their planned activity. The Foreign Investment Committee and/or the Federal State Committee for Ecology and Nature Use is/are in charge of granting authorisation. Based on the provisions of the February 1992 Law on Mineral Resources, exploration and exploitation of resources are subject to licensing; it is the local government, together with the Federal Ministry of Trade and Resources, which grants the licenses (but, according to the Land Code enacted in April 1991, the State Mining Inspectorate must also participate in the process of granting licenses, since it must approve use of land overlaying mineral deposits).

-- In Ukraine, a list of new sectors for which a license from the appropriate government agency is needed was approved in October 1992

(Act on the Introduction of Amendments and Additions to the Act on Entrepreneurship). These sectors include, for example, freight operations, security services, the extraction of diamonds, the utilisation of waste material, the storage of radio-active substances and audit services. In addition, the Decree 24-92 of 31 December 1992, regulating the Activities of Legal Entities Created by State-owned Enterprises, and the Decree 8-92 of 15 December 1992 (on the Administration of State-owned Property) affect foreign involvement in privatisation projects: except in the case of privatisation contest or auction, foreign investment by way of purchasing state-owned assets can take place only with the permission of the State Property Fund of Ukraine. With regard to municipal property, permission is required from the respective municipal property management bodies which approve the procedure of purchase.

Sectors closed to foreign investment

The sectors closed to foreign investors are usually included in a "negative list". It should be underlined that sectors closed to FDI are very often also closed at least in part to domestic investors. This is the case for instance in the Czech Republic, Hungary, Romania, the Slovak Republic and in Ukraine. In Ukraine, the production of drugs, weapons, ammunition and explosives are closed to FDI, because they can only be carried out by public sector enterprises. In the same way, according to the Article 4 of the Law On investment activity, which applies to both domestic and foreign investors, investment is prohibited if it does not meet sanitary and hygienic requirements, radiation, ecological, architectural and other standards, or violates interests of citizens, legal entities of the state.

The sectors in which foreign investment is most frequently prohibited are defence and state security (the Czech Republic, Slovak Republic, Romania, Albania, Lithuania, Russia, Kazakhstan, Ukraine). Sectors in which the economic interests of the state may come under threat are closed to foreign companies in Ukraine. In Poland gambling is the only sector closed to foreign investment. Singled out in Romania, Albania, Russia and Ukraine legislation are the cases of activities posing a threat to public order (Romania and Albania), of health and the environment (Romania, Albania, Russia and Ukraine). Also, in some countries such as Romania, fully foreign-owned companies in certain sectors (insurance in the case of Romania) are forbidden.

Authorisation procedures

Authorisation procedures vary from one country to another. The body or bodies responsible for assessing applications are often clearly identified and the period for approval is generally restricted. However, the assessment process, including the areas of activities in which approval is required, is not always transparent.

The bodies responsible for approving foreign investment projects, and the length of time allowed for examining each file are as follows:

- In Poland, investment project evaluation takes a maximum of two months and is the responsibility of a single body: the Ministry of Ownership Transformation. In the financial services sector, project evaluation may take 3 to 6 months, and authorisation is granted by the President of the National Bank of Poland in agreement with the Ministry of Finance; authorisation to do business in the insurance sector is upon the competence of the Minister of Finance.

- In the Czech Republic, investment project evaluation involves several government departments according to the sector of activity and may take a maximum of two months. In the case of foreign investment in the banking sector, authorisation is granted by the respective State Bank. In the Slovak Republic, investment project evaluation involves several government departments only in the process of privatisation, otherwise foreign investors do not need any government approval.

- In Hungary, investment project evaluation in the financial sector is the responsibility of the government and of the chairman of the Central Bank.

- In Romania, approval for investment in the banking sector is made by the National Bank.

- In Bulgaria, investment project evaluation is in the hands of various bodies: the Council of Ministers and/or any body appointed by the latter for that purpose. For foreign investment in the banking and insurance sector the board of directors of the Central Bank is responsible for granting authorisation. Investment project evaluation is supposed to take no more than 45 days, except in the case of foreign investment in the banking sector, where the procedure may last up to three months.

- In Albania, several government bodies are responsible for foreign investment project evaluation and final authorisation: (1) the Council of Ministers for an investment in major sectors of the economy which are of national importance and above a minimum value; (2) the Ministry of Trade and Foreign Economic Relations for all investment in the other sectors except for an investment with a value under US$ 50,000 in cash or in kind; (3) the local government body for any investment with a value under US$ 50,000; (4) the Ministry in charge of the state-owned enterprise in which the foreigner wishes to invest; (5) the Central Bank when foreign investment is made in the financial sector. The Council of Ministers gives or refuses the authorisation within a period of two months from the date of the receipt of the request; the ministry authorises an investment project within a period of 45 days, but it may ask for the authorisation of the Council of Ministers. Finally, the local governmental body authorises investment within a period of one month (but it may ask for the authorisation of the Council of Ministers).

-- In Lithuania, a foreign investor must apply to the designated local authority to obtain an operating license. The authority must make its decision to grant the license within 30 days from the receipt of the application.

-- In Latvia, a foreign investor must apply to the Council of Ministers or the institution designated by it in order to obtain a license. The authority must adopt a decision in this matter within 30 days from the receipt of this application.

-- In Belarus, foreign investment evaluation projects are in the hands of several bodies, including the Belarussian Council of Ministers for the registration of certain large enterprises.

-- In Kazakhstan, two bodies are in charge of evaluating foreign direct investment: the Ministry of Finance (when the proposed project concerns financial institutions) and the Ministry for Foreign Economic Relations. The latter Ministry is obliged to notify the foreign investor about the decision taken within 30 days.

-- In Russia, the Russian Federation Committee on Foreign Investment is responsible for registering foreign investment; it is also responsible for licensing foreign investment exceeding 100 million rubles, in scientific matters, in industrial conversion projects, and in the fuel and energy sector. Other bodies are responsible for licensing other types of foreign investment. Most of the licensing decisions are taken by the Council of Ministers of the Republics, but other administrations at different levels, including the cities of Moscow and St. Petersburgh, may also be involved -- for instance, the Federal Ministry of Trade and Resources, together with local governments and the State Mining Inspectorate, are responsible for granting licenses in the sector of mineral resources. According to a draft law, the Committee of Foreign Investment (or another State body which would replace it) would become the only agency responsible for licensing.

-- In Ukraine, about 20 bodies are in charge of evaluating projects in various sectors. In the near future all kinds of licenses will be granted by the Licensing Chamber of Ukraine based on a unified procedure. At present, the Ukrainian Cabinet of Ministers or other appropriate State authority grants authorisation for foreign exploitation of oil, mineral and other natural resources, the Ministry of Finance grants authorisation for insurance and mediation activities, the National Bank of Ukraine grants authorisation for banking operations, the executive committees of local councils of peoples deputies or local state administrations to invest in tobacco and the Ministry of Employment, the Ministry of Health and other public state and local administrations all grant licenses to enterprises with foreign investment. The relevant license for a period of three years or less must be granted within 30 days from the receipt of application.

Table 2. Restrictions on foreign participation

	Sectors and partnerships subject to authorisation	**Sectors closed to FDI**
Poland	Operation of sea ports; real estate brokerage; provision of legal services; wholesaling of imported consumer goods; defence industries; banking; insurance; airport operations	Gambling and casinos
Czech Republic	Banking and insurance; international trade; cooperatives set-up before July 1988; casinos	Defence, security
Slovak Republic	Banking and insurance; international trade; cooperatives set-up before July 1988; casinos; health care	Greenfield investment in defence and security
Hungary	Financial institutions if foreign participation exceeds 10 per cent of the capital, insurance,	Defence, security; transportation of persons; domestic public roads;

(continued)

	Sectors and partnerships subject to authorisation	**Sectors closed to FDI**
	domestic commercial aviation, establishment of foreign securities firms	navigational rights for inland waterways; 26 per cent or more of foreign capital in existing Hungarian banks; casinos
Romania	None in theory, but all in practice; special authorisation required for investment in the banking sector	Defence, security; public order; health; activities in conflict with environmental laws; Full foreign ownership in the insurance sector
Bulgaria	Banking and insurance; arms, ammunition and military equipment; exploration and exploitation of natural resources in the territorial sea, the continental shelf, or the exclusive zones	The sectors indicated in the left-hand column of this table can be the subject of a refusal to grant authorisation, and thus be closed to FDI
Albania	All	National security, defence sectors; activities in conflict with environment laws or which harm the legal or public order or morality
Estonia	Mining; gas and water supply; power engineering; railway and aviation-related construction and expansion; waterways, harbours and docks administration; communications technology and networks (including television, radio, telephone)	

(continued)

	Sectors and partnerships subject to authorisation	Sectors closed to FDI
Latvia	Investment in a state enterprise; control over an enterprise whose capital worth exceeds US$ 1 million establishment of a new enterprise, whose capital worth exceeds US$ 1 million.	Foreign control is not allowed in the following enterprises: defence industry; manufacturing and sales of narcotics, weapons, explosives; emission of stocks, banknotes, coins and stamps; mass media; national education; natural resources; fishing in the internal waters; hunting; port management
Lithuania	All	
Russia	Financial institutions, exploration and exploitation of mineral resources, foreign participation exceeding a given amount; activities with health and environmental consequences, some industrial conversion projects, fuel and energy sectors	Some enterprises to be privatised, small defence units which are undergoing conversion, military sector, 50 per cent or more foreign-owned companies in the insurance sector, activities related to precious metals, transports
Kazakhstan	Financial institutions; large-size investments	Manufacture of products for direct military application
Belarus	Enterprises with more than 30 per cent foreign investment; exploitation of natural resources; rental of state property	Banking and insurance sectors when the foreign share exceeds 50 per cent

(Continued)

	Sectors and partnerships subject to authorisation	Sectors closed to FDI
Ukraine	Exploitation of natural resources; banking, audit and insurance; the utilisation of waste material and the storage of radio-active substances; freight operations; security services; practice of medicine, veterinary medicine; practice of law; security services; production of beer, wine, vodka, cognac, and tobacco; production of sports and cold weapons; production of chemicals and veterinary medicaments; production and repair of means of measurement and control; topographical and geodesical, cartographical operations and cadastre surveys; operations of exploration for and design of power; public communications; war industry facilities; pipelines; bridges, tunnels, electric power stations, airports, seaports at the territory subject to seismic activity as well as to karst-formation, underwashing, sinking, shifts, displacement and landslides; intermediary operations in field of employment; implementation of air chemical operations and aerial photography; designing, construction and maintenance of atomic power facilities and services;	100 per cent ownership in strategic sectors (list to be determined); security and defence; some privatised companies (list to be determined); production of narcotics; national and foreign investment which does not meet sanitary-hygienic requirements or radiation, ecological, architectural and other standards; investment which violates legally protected rights and interests of citizens, legal persons or the state.

(continued)	Sectors and partnerships subject to authorisation	Sectors closed to FDI
	mail delivery and operations; domestic and international transportation of passengers and cargo by air, river, sea, railway and automobile; trade and export obligations; telecommunications; production and repair of means of measurement and control.	

6. Investment Incentives

Central and Eastern European countries, the Baltic States and New Independent States have been providing generous tax and financial incentives to attract FDI and stimulate economic development. Foreign investors thus enjoy a number of specific tax and customs concessions which may not be available to domestic enterprises. They may also enjoy tax reductions in addition to the concessions extended to domestic companies, depending on their activities.

A few countries are abandoning the policy of generous tax incentives, mainly because of the exponential growth of tax revenue forgone and the incentives' marginal effect on FDI flows.

In Poland, all tax incentives for foreign investment are valid for investments made before the 31 December 1993. In other cases, they are replaced by direct and more targeted financial incentives. Hungary has decided to completely abolish tax incentives specific to enterprises with foreign participation by the end of 1993. This will not have a retroactive effect on enterprises with foreign equity already benefiting from the existing tax incentives or which will benefit by 31 December 1993 (this is the case of firms with foreign participation setting up between now and 1 January 1994).

In the Czech Republic, no tax incentives specific to enterprises with foreign participation have been granted by the government to newly established foreign capital firms since 1 January 1993, although the Czech Ministry for Trade and Industry appeared at the very end of 1993 to possibly reconsider the non-incentive policy of the government.

In Bulgaria, some tax reliefs available to foreign investors have been withdrawn in October 1993 (with a non-retroactive effect). For companies in which the foreign investment is more than 49 per cent and USD 100,000, the special 30 per cent rate of profits tax has been repealed; they have to pay the standard 40 per cent. The tax reliefs for foreign investors operating in agriculture, the food industry and high technology sectors have also been repealed.

On the contrary, other countries have planned to introduce new fiscal measures to attract more foreign investment. The Russian government

commissioned in October 1993 drafting amendments to the taxation legislation to provide favourable conditions for attracting foreign capital in key industries.

Tax concessions

Irrespective of the origin of their capital, enterprises in all twelve countries are liable to a number of taxes. Some of these can be totally or partially waived for enterprises with foreign participation. In some countries, such as Lithuania, tax concessions are granted for firms with or without foreign participation. Where there are tax concessions, relief is available on profit tax. The Slovak Republic, Hungary, Bulgaria, Russia, Lithuania have extended incentives to other taxes; Hungary, Poland, Kazakhstan, Ukraine have extended them to retained earnings. Tables 3 and 4 list the tax incentives applicable to foreign investment country by country.

Table 3. Tax incentives to FDI in CEECs

Taxes and dues	**Poland**	**SR**	**Hungary**	**Romania**	**Bulgaria**	**Albania**	**Estonia**	**Latvia**	**Lith.**
Profit tax	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Payroll tax	No	Yes	No	No	No	No	No	No	Does not exist
Dividend tax	No	Yes	No	Yes	Yes	No	No	No	Yes
Retained earnings tax	Yes	Yes	Yes	No	No	Yes	No	Yes	No

More specifically, the tax incentives include the following provisions:

-- In Bulgaria, only dividends used for certain specific purposes qualify for tax relief, i.e. when the dividends generated by the company are used to purchase securities or bonds in Bulgaria or to pay for technical services, or go towards production and plant. Dividends not used for these purposes do not enjoy any relief and are therefore taxed at the normal rate of 15 per cent. In addition, municipal taxes do not apply to foreign participation enterprises, while they apply to domestic investors.

-- In Poland, Hungary, Romania and Albania the profits of companies with foreign equity are exempt from tax when they are reinvested in the same companies or in other Polish, Hungarian, Romanian or Albanian companies. New income tax reliefs should be introduced in Poland in 1994 for businessmen reinvesting income in their business.

-- In the Czech Republic, there were no special tax incentives to FDI at the beginning of 1994, except those granted at the local government level.

Table 4. Tax incentives to FDI in Selected NIS

	Taxes and dues			
	Russia	**Belarus**	**Ukraine**	**Kazakhstan**
Profit tax	Yes	Yes	Yes	Yes
Payroll tax	Yes	Yes	No	No
Dividend tax	No	--	--	No
Retained earnings tax	Yes	--	Yes	Yes

Corporate Tax relief

As regards corporate tax relief, the conditions for obtaining tax relief in the CEECs differ widely from one country to another. A distinction may be made between those countries which grant automatic relief, whether or not there are conditions attached, those in which relief is discretionary, and those with mixed systems -- i.e. countries with discretionary and unconditional tax incentive systems:

-- Albania and the Slovak Republic are among the countries granting a reduction or even automatic relief on profit tax for all new FDI within their frontiers. Albania gives complete exemption from profit tax for two years after the establishment of a company with foreign participation, and a 50 per cent reduction for the following three years. At the end of the five years, profit tax may be reduced by 40 per cent, but on condition that all the profits earned by the enterprise are reinvested in Albania. Certain ministries have announced their intention to introduce additional tax incentives. In the Slovak Republic, the government decreed in April 1993 that all new companies established since 1 January 1993, except investment funds, are given a tax holiday for their first year of profit.

-- In Romania, automatic tax holidays on profit for two to five years are granted for foreign investment depending on the sector: five years for investment in industry and constructions (an amendment to the Foreign Investment Law, under discussion in the parliament at the time of writing, adds exploration and production of natural resources to this category of activities); three years for investment made in the exploration and production of natural resources, communications, and transport; two years for investment in trade,

tourism, banking, insurance and other service sectors. Further reductions of the tax on profits may be granted once the term of the tax break has elapsed, provided that companies meet certain requirements.

-- In Hungary, tax benefits are also automatic if the enterprise seeking the relief satisfies certain conditions.

-- In Poland, tax relief is granted on a discretionary basis and has to be requested by the enterprise, which must fill in a form and has to satisfy the necessary legal conditions.

-- The Slovak Republic and Bulgaria operate mixed systems combining the discretionary and the automatic.

While the Czech Republic moved in 1993 toward establishing a more level playing field as regards the taxation of domestic enterprises --previous tax incentives specific to enterprises with foreign participation have been abolished since 1 January 1993-- fiscal (and non-fiscal) incentives can still be granted to foreign investors by local authorities on a discretionary basis.

In the Slovak Republic, while new fiscal incentives for companies with foreign participation established in Slovakia after 31 December 1992 were introduced in April 1993, those fiscal incentives established before the breakup of Czechoslovakia still apply for companies registered before 1 January 1993. Furthermore, fiscal (and non-fiscal) incentives can still be granted to foreign investors by local authorities on a discretionary basis as was the case in former CSFR.

Under the new Slovak fiscal incentives scheme, full company tax holidays are available for all new businesses, domestic as well foreign, registered after 1 January 1993 for one year. The initial period is extended on the companies' request for an additional two years for entities with more than 30 per cent foreign participation, or with the equivalent of at least DM 1 million in foreign capital. In addition, for businesses located in certain districts of the Slovak Republic or businesses that reinvest profits in selected regions where unemployment is high, additional company tax holidays are granted on request. Furthermore, banks with foreign participation may benefit from a very generous fiscal treatment. Depending on the amount of foreign capital invested in the equity capital or where the investment is made, they may enjoy company tax holidays up to 13 years. Companies which enjoy full exemption and companies which enjoy only partial exemption are required to reinvest respectively 80 per cent and 50 per cent of their profits into further development of their activities.

In Bulgaria, under the fiscal scheme valid until October 1993, in addition to automatic tax reductions, discretionary tax relief is granted for a maximum of five years by the Council of Ministers to firms operating in the agricultural, food and high technology sectors.

-- Latvia and Lithuania have implemented systems based on automatic tax exemptions with and/or without conditions.

Table 5. Concessions schemes for profit tax in the CEECs

Scheme	Poland	SR	Hungary	Romania	Bulgaria	Albania	Estonia	Latvia	Lith.
Discretionary award, with conditions	Yes	No	No	No	Yes	No	No	Yes	No
Discretionary award, with no conditions	No	No	No	No	No	No	No	No	No
Automatic award, with conditions	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Automatic award, with no conditions	No	Yes	No	Yes	No	Yes	No	No	Yes

Note: This table does not take into account discretionary award at the local government level. For this reason, the Czech Republic does not appear in the above table.

The conditions for obtaining tax relief (on profits and other corporate taxes) also differ appreciably from one country to another in the NIS.

While Belarus grants conditional tax holidays, Kazakhstan has implemented a system based on automatic tax exemptions with or without conditions.

In Russia, companies with foreign participation are subject to the same taxation system and to the same rates as local enterprises. However, the Federal authorities as well as local governments may reduce taxation on foreigners, for instance when they invest in specific projects and areas of activities approved by the relevant authorities. Such reductions are discretionary and must be negotiated with the authorities on a case-by-case basis, particularly since both the Federal government and sub-levels of government intend to offer tax incentives in new priority sectors.

Table 6. Tax concession schemes applying to enterprises with foreign capital in the NIS

Scheme	Russia	Belarus	Ukraine	Kazakhstan
Discretionary award, with conditions	Yes	No	No	No
Discretionary award, with no conditions	Yes	No	No	No
Automatic award, with conditions	No	Yes	Yes	Yes
Automatic award, with no conditions	No	No	No	Yes

Conditional tax relief on the profits of companies with foreign participation

In Bulgaria, tax relief used to be granted if foreign participation exceeded 49 per cent of the company's total capital and if that participation amounted to at least US$ 100,000 in convertible currency. Under the amendment to Decree No. 56, the special 30 per cent rate of profits tax has been, however, repealed for companies in which the foreign investment is more than 49 per cent and US$ 100,000; they now have to pay the standard 40 per cent.

In Estonia, companies with foreign participation enjoy the following tax incentives:

-- a company in which the foreign investor has a share of at least 30 per cent and more than US$ 50,000 is entitled to exemption from income tax for two years, beginning in the year in which profits are first realised, and to a 50 per cent reduction for the next two years.

-- a company in which a foreign investor has a share of at least 50 per cent and more than US$ 1 million is entitled to exemption from income tax for three years, beginning with the year in which the profit is first realised, and to a 50 per cent reduction in the next five years.

-- a company engaged in an activity which is considered a priority by the government is exempted from income tax for three years beginning with the year in which profits are first realised, and to 50 per cent reduction of income tax for the next two years.

In Hungary, tax relief is awarded:

-- if the company with foreign participation was registered before 31 December 1993; the company’s initial capital is in excess of 50 million forints (some US$ 625,000); the foreign contribution represents at least 30 per cent of the initial capital in excess of 50 million forints; at least half of the company’s returns are derived from manufacturing or from the management of a hotel built by the company; and if more than half of the company’s earnings derive from operations in "particularly important sectors of the economy" (which, as defined by the Hungarian authorities, include electronics, biotechnology and automobile production; other sectors may be added to the list).

-- the enterprise is completely exempt from profit tax during the first five years and enjoys a 60 per cent reduction in tax for the following five years.

In Latvia, companies with foreign capital enjoy both automatic exemptions and discretionary relief:

Companies with foreign capital enjoy automatic exemptions if they meet one of the following requirements:

-- if the foreign investor’s share exceeds 50 per cent and is not less than US$ 1 million, the company is exempt from profit tax for three years, beginning with the first year of profit generation, and receives a 50 per cent reduction in profit tax for the subsequent five years.

-- if the foreign investor’s share in the company’s paid-up capital at the beginning of the tax period and during the entire period of tax free status exceeds 30 per cent, the company is exempt from the payment of profit tax for two years, starting with the first year of generation, and receives a 50 per cent reduction in the profit tax for the subsequent two years.

-- if the foreign investor’s share in the company’s paid-up capital at the beginning of the tax period and during the entire period of tax free status exceeds 30 per cent, and the company engages in activities for which the Council of Ministers of the Republic of Latvia has granted the most favoured economic status, it is exempt from payment of profit tax for three years, beginning with the first year of profit generation and receives a 50 per cent reduction of the profit tax for the subsequent two years. The activities are: biotechnical production; pharmaceutical industry; medical equipment; the development of ports; the transportation and communication

industries; electronics; the manufacture of construction materials; the pulp and paper industry; furniture; agriculture machinery; the food industry; energy.

Companies with foreign capital may benefit from further tax reductions, if the Council of Ministers decides to allow so at the time the tax free period expires and if the enterprises are engaged in the production of goods highly important for the Republic of Latvia (as defined in the Appendix 3 to the Republic of Latvia Law "On Foreign Investment").

In Lithuania, there are both automatic exemptions when certain conditions are met and automatic exemptions with no conditionality.

-- If a firm is registered, or if foreign capital is invested prior to 31 December 1993, profit taxes are reduced by 70 per cent for a 5 year period followed by a reduction of 50 per cent for the next 3 years.

-- If a firm is registered or foreign capital is invested in the period from 1 January 1994 to 31 December 1995, profit taxes shall be reduced by 50 per cent for a 6 year period.

-- Dividends to foreign investors received in the Republic of Lithuania are exempt from taxes.

In Poland, the Minister of Finance may exempt a company from income tax if:

-- the contribution of foreign parties to the company's equity capital exceeds the equivalent of 2 million ECU; and

-- if the economic activity of the company in particular (1) will be conducted in regions endangered by high structural unemployment, or (2) will ensure introduction of new technologies to the national economy, or (3) will enable exports equalling at least 20 per cent of the overall sales value.

In Romania, forms of tax relief are subject to the following conditions:

-- there is partial relief for three years in sectors of service activities;

-- there is general and automatic relief for five years for investment in industry, agriculture and construction;

-- there is complete and automatic relief for three years for foreign investment in exploration and natural resources production, communications and transportation;

-- there is a general two-year tax-holiday for trade, tourism, banking, insurance, and other services; and

-- there is a 50 per cent reduction of indefinite duration, following the above-mentioned periods, for foreign investment which "improves the material and technical foundations of the economy, creating new technologies, expanding existing activities or protecting the environment" (a 50 per cent reduction), or which creates at least fifty new jobs, and for which at least half the machinery is purchased in the host country, for which at least 10 per cent of expenditure is on domestic R&D and vocational training. A 25 per cent reduction is granted when 50 per cent of the raw materials and energy are imported and at least 50 per cent of the resulting products or services are exported.

In the Slovak Republic, see the description above.

In Belarus, profit tax exemptions for companies with foreign capital were granted by the Ministry of Finance in 1992. The tax regime makes a distinction between companies with foreign participation of below and above 30 per cent. In addition, taxable profits can be reduced by the amount of profits actually used for special purposes. It should be stressed that tax exemption is granted strictly on the condition that a company makes profits only with the sale of goods and services of its own production.

-- There are, in principle, no profit tax holidays for the first group of foreign investors. Tax on profits is set at 30 per cent. However, taxable profits can be decreased (cumulatively up to 50 per cent of the balance of profits) by the amount of profits actually used for resolving the consequences of the Chernobyl accident, for environmental protection, research, expansion of production, increase in the production in the fuel and power industries, consumer goods and construction material, for establishing recreation facilities, for hospitals and housing, for enterprises employing handicapped persons, veterans, etc.

-- Wholly-owned foreign companies and those where the foreign share exceeds 30 per cent may enjoy tax exemption for three years. A 50 per cent reduction in taxes applies during the subsequent three years if they produce especially important goods (the list of such goods is drawn up by the Council of Ministers).

-- In addition, income tax rates vary according to the source of incomes.

In Kazakhstan, two conditions must be met by the company with foreign capital to benefit from tax concessions:

1) the foreign investor’s share must exceed 30 per cent and

2) the company with foreign capital must be engaged in the manufacture of electronic products, consumer goods, in the processing and storage

of farm produce, in the manufacture of biotechnological products, medical products and pharmaceuticals, in the processing of industrial and mining waste, or in the production of construction materials.

In Russia, taxation on firms with foreign participation may be reduced if they invest in specific projects or areas of activities.

In Ukraine, companies with foreign investment enjoy the following conditional tax incentives:

-- a five year tax holiday beginning the first year of profit and thereafter 50 per cent exemption from profit tax for enterprises in the manufacturing sectors;

-- a three year tax holiday beginning the first year of profit and thereafter 30 per cent exemption from profit tax for enterprises in the sphere of wholesale and retail trade;

-- a two year tax holiday beginning the first year of profit and thereafter 30 per cent exemption from profit tax for enterprises operating in "mediation" activity (as written in the law);

-- a five year tax holiday beginning at registration of the enterprise from value-added taxes for products and services of any joint-venture;

-- a reduction of the taxable sum of income of the enterprise with foreign investment by the amount of funds reinvested in domestic business.

-- additional tax exemptions are granted to enterprises with foreign investment operating in top-priority branches of the Ukrainian economy included in the government programmes for promotion of foreign investment (branches to be determined).

Table 7. Survey of Corporate Income Taxes and VAT in the 14 CEECs and NIS

Countries	**C.I.T.**	**VAT**
CEECs		
Albania	n.a	Does not exist
Bulgaria	40%	18% from 4.94
Czech Republic	45%	23%
Estonia	15-30%	18% from 1.94
Hungary	40%	25%
Latvia	35%	17% (turnover tax)
Lithuania	34%	Does not exist
Poland	40% (7% in special cases)	22%
Romania	30-45%	VAT from 7.93
Slovak Republic	45%	25%
NIS		
Belarus	30%	28%
Kazakhstan	35%	28%
Russia	32%	20%
Ukraine	30%	28%

Profit tax

The rate of discretionary relief on corporate income tax liability (Poland, the Slovak Republic, Bulgaria, Russia) varies since it may not been established by the FDI Law or other relevant laws. In Poland is it stipulated that the value of the tax reduction cannot exceed the value of the equity on the date of its purchase by the foreign party. In the case of relief not granted on a discretionary basis, the rates are set by law or decree.

- In Albania, there is 100 per cent relief for the first two years, 50 per cent for the following three years, and then 40 per cent on condition that all the profits earned by the company are reinvested in Albania.

- In Bulgaria, the standard rate of profit tax is 40 per cent; this comes down to 30 per cent when the enterprise with foreign participation complies with listed conditions and when it was established before Decree 56 amended. Under the amended version of the Decree, the special 30 per cent rate has been repealed : companies with foreign participation have to pay the standard 40 per cent.

- In Estonia, tax exemptions range from 100 per cent to 50 per cent of taxable income.

- In Hungary, the amount of relief varies according to the sector of activity:

  - in manufacturing and catering, there is a 60 per cent reduction in tax for a period of 5 years; for the following 5 years, the reduction is 40 per cent;

  - in sectors of activity that are particularly important to the Hungarian economy, reductions of 100 per cent for the first 5 years and 60 per cent for the next 5 years may be granted.

- In Latvia, tax exemptions on profits are 50 per cent.

- In Lithuania, tax exemptions on profits range from 70 per cent to 50 per cent of taxable profit.

- In Romania, there is full relief in most cases. When only partial relief is available, the investor is awarded a 25-50 per cent reduction on the standard rates applying, depending on the use of the funds of the economic organisation.

- In the Slovak Republic, for newly registered companies after 1 January 1993, full exemption from corporate profit tax for one year applies. Companies with 30 per cent or more foreign participation, or with the equivalent of DM 1 million in foreign capital will pay a reduced corporate tax rate of 30 per cent for two additional years. Full exemption from corporate income tax for a five year period applies to firms with foreign participation investing in small water and power stations, solar, and geothermal energy resource development and bio-gas equipment. The amount of relief for foreign investment in specific regions and industrial sectors is determined by Slovak authorities.

-- In Kazakhstan, when the conditions are met by the company with foreign participation, the first five years of the company's operations are profit tax free. After that, the company pays only 50 per cent of regular profit tax during the following five years.

-- In Russia, tax exemptions should not exceed 50 per cent of taxable profit.

-- In Ukraine, tax exemptions on profits are 100 per cent during the first five years and 50 per cent thereafter for manufacturers and 100 per cent for the first three years and thereafter 30 per cent for traders.

Bilateral agreements on the prevention of double taxation

Most countries have signed bilateral agreements on the prevention of double taxation with a certain number of foreign countries. Table 8 lists these agreements for the CEECs as at end 1993 (independent Czech and Slovak Republics accept and abide by all the obligations and agreements concluded by the former CSFR). A number of new agreements are being negotiated between Bulgaria, Albania, Russia, Kazakhstan, Ukraine and other countries such as the three Baltic states -- where, at the beginning of 1993, there were no double taxation agreements in effect.

Table 8. Bilateral agreements for the prevention of double taxation in CEECs (Summer 1993)

(A blank space means that there is no bilateral agreement on the prevention of double taxation.)

Country	*Poland	CR/SR	Hungary	Romania	Bulgaria	Albania	Estonia	Latvia	Lith.
Albania	Yes		Yes						
Argentina	Yes				Yes				
Armenia					Yes				
Australia	Yes		Yes	Yes					
Austria	Yes	Yes	Yes	Yes	Yes				
Belarus	Yes				Yes				
Belgium	Yes	Yes	Yes	Yes	Yes				
Brazil		Yes	Yes		Yes				
Canada	Yes	Yes	Yes	Yes					
China	Yes		Yes		Yes				
Costa Rica				Yes					
CSFR	Yes		Yes						
Cyprus	Yes	Yes	Yes	Yes	Yes				
Denmark	Yes	Yes	Yes	Yes					
Egypt			Yes	Yes					
Finland	Yes	Yes	Yes	Yes	Yes				

(continued)

France	Yes	Yes	Yes	Yes	Yes				
Germany	Yes	Yes	Yes	Yes	Yes				
Greece	Yes	Yes	Yes						
Hungary	Yes		--			Yes			
India	Yes	Yes	Yes						
Indonesia	Yes		Yes						
Iran					Yes				
Ireland	Yes								
Israel	Yes	soon	Yes						
Italy	Yes	Yes	Yes	Yes	Yes	Yes			
Japan	Yes	Yes	Yes	Yes					
Jordan				Yes					
Korea	Yes		Yes	Yes					
Luxembourg	Yes	Yes							
Malaysia	Yes		Yes	Yes					
Malta	soon		Yes		Yes				
Morocco			Yes	Yes					
Netherlands	Yes	Yes	Yes	Yes					
Niger		Yes							
Norway	Yes	Yes	Yes	Yes	Yes			Yes	
Pakistan	Yes		Yes	Yes					
Philippines	Yes								
Poland	-	Yes	Yes	Yes		Yes			
Romania	Yes								
Singapore	Yes								
Sudan				Yes					
Spain	Yes	Yes	Yes	Yes	Yes				
Sri Lanka	Yes	Yes							
Sweden	Yes	Yes	Yes	Yes	Yes				
Switzerland	Yes		Yes						
Thailand	Yes		Yes						
Tunisia	Yes		Yes						
Turkey	soon		Yes						
U.K.	Yes	Yes	Yes	Yes			soon	soon	soon
Ukraine	Yes								
United Arab Emirates	Yes								
United States	Yes	Yes	Yes	Yes	Yes				
Uruguay	Yes		Yes						
Vietnam			soon						
Yugoslavia	Yes	Yes	Yes						
Zambia				Yes					
Zimbabwe	Yes				Yes				

* For the former CMEA member countries (as well as the NIS) with which Poland has not yet signed such agreements, agreements signed within the framework of CMEA in 1978 (corporate bodies) and 1977 (natural persons) are still in force.

Table 9. Bilateral agreements for the prevention of double taxation in the NIS (August 1993)

Country	Russia	Belarus*	Kazakhstan	Ukraine
Austria	Yes		Yes	Yes
Bulgaria		Yes		
Canada	Yes		Yes	Yes
Cyprus	Yes		Yes	Yes
Denmark	Yes		Yes	Yes
Estonia	No		No	No
Finland	Yes		Yes	Yes
France	Yes		Yes	Yes
Germany	Yes		Yes	Yes
Israel	soon			
Latvia	No		No	No
Lithuania	No		No	No
Japan	Yes		Yes	Yes
Netherlands	Yes		Yes	Yes
Norway	Yes		Yes	Yes
Poland	Yes	Yes	No	Yes
Spain	Yes		Yes	Yes
Sweden	Yes	soon	Yes	Yes
U.K.	Yes		Yes	Yes
USA	Yes		Yes	Yes
Vietnam	Yes			

Note: * information not fully available for Belarus.

Source:
OECD/DAF

Other incentives: customs tariffs and free economic zones

Most CEECs and NIS are using other instruments to try to create the sort of conditions that are conducive to foreign investment. One such instrument is exemption from import duties. The Slovak Republic and Lithuania do not provide exemption for foreign investors, but they do have the one of the lowest average rates of import duty of the countries. The present low level of Lithuanian customs duties might be seen as a way of offsetting the fact that there is no exemption; in fact, the present average rate could cause foreign investors to hesitate about choosing the Lithuanian Republic as a production base on the regional market. It was one of the factor which led the Czech authorities to introduce in the summer 1993 customs duties measures aimed at expediting the creation of foreign participation enterprises.

Table 10. Average customs tariffs on imports and customs exemptions in the region in 1992

	Average rate, %	Exemptions
Albania	10-30% (April 1992)	Yes
Bulgaria	17.8% (October 1992)	Yes
Former CSFR	5.7% (April 1992)	No
Estonia	n.a	Yes
Hungary	13% (April 1992)	Yes
Latvia	20% (November 1992)	Yes
Lithuania	0.01% (October 1992)	No
Poland	15% (April 1992)	Yes
Romania	10% (April 1992)	Yes
Belarus	Not yet decided	Yes
Kazakhstan	n.a	Yes
Russia	5-25% (July 1992)	Yes
Ukraine	None	Yes

Customs duty exemption in the region is as follows:

-- In Albania, production manufactures, machinery and equipment for reinvestment or export production are exempt from customs duty.

-- In Bulgaria, the raw materials and other goods for export are exempt from customs duties.

-- In the Czech Republic, customs duties measures have been introduced in August 1993, aimed at expediting the creation of foreign participation enterprises: all the components coming to the Czech Republic for the production of goods exported outside the CR are released from custom duties for a period of up to two years. In addition, the Ministry of Industry introduced further customs duties measures: any capital good (machinery, equipment) needed for manufacturing or the provision of services was supposed to be exempted from custom duties by the beginning of 1994, while raw material would be tax free for a one-year period from the starting of the company.

-- In Estonia, all goods imported by an enterprise with foreign capital and which are needed for its statutory activities, are exempt from custom duties.

-- In Hungary, capital goods are exempt from customs duties for a limited period of time and under certain conditions.

-- In Latvia, no duty is charged on assets or technologies imported by foreign investors. Until 1 April 1993, imports of raw materials and parts imported for productive purposes were duty free. In addition, a 15 per cent import tax now applies (as opposed to the average customs duty of around 20 per cent) on goods imported from the countries which signed an agreement on most favoured trading status with Latvia, including the USA, Austria, Iceland, the EC countries, Poland, Cuba, the CIS, Hungary and the Czech and Slovak Republics.

-- In Poland, imported fixed assets representing contribution in-kind to company capital are exempted from custom duties, provided that they will not be ceded within 3 years from the date of customs clearance.

-- In Romania, in-kind contributions, raw materials and other goods that firms need are exempt from customs duty for two years.

-- In Belarus, tangible assets imported by foreign partners of a firm as contribution to authorised capital are exempt from customs duties.

-- In Kazakhstan, assets brought into the Republic as foreign investment and not intended for sale are not taxed.

-- In Russia, assets imported into Russia which form a foreign investor's contribution in kind to the capital of a joint venture or for the creation of a wholly-owned enterprise is exempt from customs duty. In addition, foreign employees of a company with foreign participation may import property for personal use free of customs duty.

-- In Ukraine, raw materials and other products imported by foreign investors for use in Ukrainian manufacturing operations, as well as contributions in-kind to initial capital, assets to be used as manufacturing investment and the personal property of the foreign employees of the company, are exempted from import and customs duties.

There are other non-fiscal incentives. Among them are free economic zones where foreign investors enjoy preferential treatment.

-- In Bulgaria, the establishment of tax-free zones is provided by Decree 2242 of 1987. Six zones have been already created and a further two zones were to be established by the end of 1993. Profits from business activities located in free economic zones and established before the adoption of the amended version of Decree 56

are exempt from profit tax for the first five years, after which they are taxed at a rate of 20 per cent. Under Decree 56 amended in October 1993, the tax reliefs for foreign investors operating in the free economic zones have been repealed.

-- In the Czech Republic, firms with foreign participation may obtain permission to establish a free-customs zone (either commercial or industrial); they may import goods into the customs zone only paying customs duty if the goods circulate in the Czech economy.

-- In Hungary, companies concerned mainly with manufacturing for export can avoid customs duties by operating in customs-free zones, which are treated as foreign countries for the purposes of customs procedures, foreign trade and foreign exchange rules.

-- In Poland, plans for Poland's first free economic zone were approved by the government in September 1993. It will be in Mielec, a town dominated by the aircraft industry. The free economic zone will offer customs, tax and exchange control benefits to companies setting up business there.

-- In Romania, Law no. 84 of July 1992 allows for the creation of special free zones in the maritime and river port areas, along the Danube-Black Sea Canal and in the frontier territories.

-- In the Slovak Republic, several free economic zones are already operating where firms with foreign participation enjoy special incentives. Two new free economic zones are planned: one in the region of Kosice (near the Ukrainian border), one between Bratislava and Komarno, on the Danube.

-- In Belarus, certain special development regions, such as Brest, have been declared by the government as free economic zones where foreign investors can lease land for 70 years and repatriate their profits in hard currency.

-- In Kazakhstan, terms of realisation of foreign economic activity in free economic zones are defined in detail by the 30 November 1991 Law on free economic zones of the Kazakh SSR. In these zones, there are exemptions from corporation tax for 2-5 years for all companies with foreign participation operating in the zones and exemptions from labour taxes for all local labour employed. In addition, no sales tax is levied on goods manufactured in the zones and sold in Kazakhstan. Moreover, all equipment and new materials imported into free economic zones for the manufacturing and processing of goods within the zones will be free of import tariffs.

-- In Russia, under Article 41 of the current Law on Foreign Investment, foreign investors are granted special incentives such as a simplified registration procedure, fiscal incentives including lower taxes on the repatriation of profits, reductions in customs tariffs, and lower lease payments for use of land and natural resources. By

the end of 1992, a small number of free economic zones had existed in Russia, but they did not meet expectations, perhaps because special incentives had not yet been given to foreign entrepreneurs. A decree and a law are currently being drafted to define the establishment of free economic zones and special incentives applying to foreign investment, while a decree creating the Kiril economic zone was adopted at the beginning of 1993, reportedly allowing for the creation of 99-year leases for foreign investors.

-- In Ukraine, the issue of free economic zones is at the stage of practical implementation. On 13 October 1992, the parliament adopted the Law "On general principles of establishment and operation of special (free) economic zones". Under this law, the status and territory of a special economic zone as well as the period for which it is established are determined by the Ukrainian parliament, which is to adopt an individual act for each free economic zones. The zones will provide for the preferential (compared to the general national regime) business conditions for both national and foreign investors. Draft legislation on free economic zones in Odessa, Zakarpatye and Sevastopol had already been submitted for consideration to the Parliament at the end of the first semester 1993, and a committee for the creation of an Odessa free economic zone, the first such zone in Ukraine, was set up in September 1993. Draft legislation on other zones in Kiev, Chernigov, Donetsk and the Crimea were also being studied.

7. Financing of investment

Borrowing

All countries allow foreign investors to borrow from local banks. Generally very high nominal interest rates do not make this an attractive source of financing for foreign enterprises with access to international capital markets. In addition, in some countries credit limits exist.

Securities

Some countries have already opened their stock markets. The volume of marketable securities is for the time being very small.

-- In Bulgaria, the Sofia stock market opened its doors on 20 February 1992.

-- In the Czech Republic, trading in the shares of Czech enterprises in the first privatisation wave is expected to get soon into full swing. The volume of equity involved will be important and will increase by the end of the year after the conclusion of the second wave of privatisation by the voucher method. It is indeed expected that, when the shares become available for trading, most of the individual holders will want to sell and that the investment funds will have to

unload an important part of their portfolio to be able to meet the promises of multiple gains made to their share holders. At the same time, shares in the investment funds will also reach the market. The Securities Trading Act of the Czech Republic, which came into force on 1 January 1993 regulates the trading rules and the organisation of the securities market.

-- In Hungary, the Budapest stock market reopened in June 1990. Shares in the biggest Hungarian companies (including those with partial or total foreign participation) can now be traded and listed.

-- In Latvia, embryonic stock exchanges have been established.

-- In Poland, the Warsaw stock market reopened in mid-April 1991. By September 1993, about 20 large enterprises, privatised through public offerings, had been traded on the Warsaw Stock Exchange.

-- In Romania, there are not at present any stock market activities. The Romanian Government promised in March 1991 to draft a bill authorising stock market activities; in Fall 1993 the bill had still not been approved.

-- In the Slovak Republic, financing through securities issues should wait until the second round of voucher privatisation has been completed, i.e. as late as beginning-1994.

-- In Belarus, on 12 and 13 March 1992, Parliament passed laws on securities and stock exchanges and on commodity exchanges.

-- In Russia, while there is no stock-exchange on a Western scale, the rudiments of a securities market are beginning to develop as the number of joint stock companies increase.

8. Legal and international guarantees for FDI

Legal guarantees

Repatriation of funds

The question of the repatriation of funds is an important one for foreign investors. First, they want the twofold assurance that they will be able to enjoy the fruits of their investment and recover the sums invested when the project is complete. Second, they want to be sure of being fairly and equitably compensated in the event of expropriation. It goes without saying that this sort of guarantee can also help attract flows of foreign capital to the host country.

In Poland, the Czech Republic, the Slovak Republic, Hungary, Romania, Bulgaria, Russia, Estonia, Latvia, Lithuania, the repatriation of profits, wages paid to foreign employees and other payments is in general possible,

though there are some restrictions in Bulgaria and Hungary. In Albania, although in principle, there are no restrictions on the repatriation of profits in convertible currency (if the profits were made in local currency, the State Bank exchanges the Leks for convertible currency), the legislation is however somewhat restrictive. Table 11 lists the legal guarantees covering FDI in each country.

Table 11. Repatriation of profits, wages and other payments in convertible currency

	Profits	**Capital**	**Other**	**Wages Payments**
Albania (4)	Restrictions	Restrict.	Restrict.	Restrictions
Bulgaria	Yes	Yes	Yes	Restrictions (3)
Czech and Slovak Republics	Yes	Yes	Yes	Restrictions (1)
Estonia	Yes	Yes	Yes	Yes
Hungary	Yes	Yes	Yes	Restrictions (2)
Latvia	Yes	Yes	Yes	--
Lithuania	Yes	Yes	Yes	Yes
Poland	Yes	Yes	Yes (6)	Yes
Romania	Yes	Yes	Yes	Yes
Belarus		Legislation	silent	Yes
Kazakhstan	Yes	No	No	No
Russia	Yes	Yes	Yes	Yes
Ukraine	Restrict. (5)	Yes	Yes	Legislation silent

Notes to the above table:

The term "other payments" refers to the sums deriving from investment, other than profits; these include interest, new equity issues, income on intellectual property rights. "Yes" means that repatriation is unrestricted.

1) In the Czech and Slovak Republics, transfers of wages by foreign workers cannot exceed 7,000 crowns (as it is the case for Czech and Slovak workers).

2) Companies' foreign employees may repatriate only 50 per cent of their wages in the currency of their country of origin.

3) Under the provisions of the Act of January 1992, foreign investors are free to transfer their profits, interest, dividends and other investment earnings in convertible currency. The same is true in the event of liquidation. Foreigners working for companies with foreign participation may only purchase convertible currency to the extent of 70 per cent of their wages and other compensation (such as social insurance payments).

4) The repatriation of foreign capital, profit and other payments is permitted under Article 13 of the Foreign Direct Investment Law of 4 August 1992, on condition that this does not have a negative impact on the country's external balance.

5) Repatriation of profits is possible when these profits are made in hard currency and after a 15 per cent tax has been paid.

6) The Polish National Bank decided in June 1993 to allow foreign investors to repatriate fully their profits on Polish state bonds and treasury bills without the special permits previously required.

Nationalisation and expropriation

In the event of nationalisation and expropriation, the legislation of all countries guarantees compensation in convertible currency equal to the amount of the investment. In Poland, the law provides that compensation is based on the principle of reciprocity (Act of 14 June 1991 on companies with foreign participation).

In some countries in transition, the law guarantees the protection of firms with foreign participation from changes in legislation to their detriment for a certain number of years. In Russia and in Ukraine, for instance, the law guarantees protection from changes in legislation to the detriment of foreign investors for three to ten years.

International guarantees

Bilateral agreements can strengthen the guarantees extended to foreign investors and make for even more favourable conditions than those afforded by the legislation on foreign investment. Very often, such agreements are seen by the country of origin of the investment as a prerequisite for promoting foreign investment in the host country.

Intergovernmental agreements on the protection of foreign investment with NIS

Russia and Kazakhstan accept all bilateral treaties regarding the protection of investment concluded by the Soviet government, but have been actively negotiating replacement treaties. While Kazakhstan had signed three treaties by the beginning of 1993 (with the USA, France and Turkey), Russia had concluded 15 investment protection treaties (with Austria, Belgium-Luxembourg, Canada, China, Denmark, Finland, France, Germany, Poland, Netherlands, Spain, Switzerland and Turkey). Russia is also completing treaties which were under negotiations at the time the USSR collapsed and has negotiated with a number of countries new bilateral treaties based on international standards and the Russian legislation.

At the end of the first quarter of 1993, Ukraine had signed agreements with 8 countries (China, Denmark, Finland, Germany, Mongolia, Poland, United Kingdom and USA) and is currently negotiating with another 17 countries. On its side, the Belorussian State Committee for Foreign Economic Relations was holding talks with the US government on a joint Belorussian-American agreement on the protection of investments in April 1993.

Intergovernmental agreements on the protection of foreign investment with CEECs

Table 12 lists the bilateral agreements signed by seven of the ten Central and East European countries at the beginning of the fourth quarter 1993. To this table the intergovernmental agreements signed by the three Baltic states with western countries should be added. In October 1993, Estonia had signed agreements on mutual protection, and promotion of investment with six countries (China, Germany, Denmark, Netherlands, Poland, Sweden) while Lithuania signed a similar agreement with Germany, Poland, Sweden, Switzerland and Finland. Latvia signed an Accord on mutual protection of investment with Poland in April 1993, in addition to the three it had previously signed with Denmark, Sweden and Switzerland.

Table 12. Intergovernmental agreements on the protection of FDI

Country	Poland	Czech & Slovak Republics	Hungary	Romania	Bulgaria	Albania
Albania	Yes	No	No	No	No	--
Argentina	Yes	No	Yes	No	Yes	No
Australia	Yes	Yes	Yes	No	No	No
Austria	Yes	Yes	Yes	Yes	Yes	Yes
Bangladesh	No	No	No	Yes	No	No
Belarus	Yes	No	No	No	No	No
Belgium	Yes	Yes	Yes	Yes	Yes	No
Cameroon	No	No	No	Yes	No	No
Canada	Yes	Yes	Yes	No	No	No
China	Yes	No	Yes	Yes	Yes	Yes
Cyprus	Yes	No	Yes	No	Yes	No
Czech Rep.	Yes	Yes	Yes	Yes	Yes	No
Denmark	Yes	Yes	Yes	Yes	No	No
Egypt	No	No	No	Yes	No	No
Estonia	Yes	No	No	No	No	No
Finland	Yes	Yes	Yes	Yes	Yes	No
France	Yes	Yes	Yes	Yes	Yes	No
Germany	Yes	Yes	Yes	Yes	Yes	Yes
Ghana	No	No	No	Yes	Yes	No
Greece	Yes	Yes	Yes	No	No	Yes
Hungary	Yes	Yes	--	Yes	Yes	No

(continued)

Country	**Poland**	**Czech & Slovak Republics**	**Hungary**	**Romania**	**Bulgaria**	**Albania**
Indonesia	Yes	No	Yes	No	No	No
Israel	Yes	No	Yes	No	No	No
Italy	Yes	Yes	Yes	Yes	Yes	Yes
Latvia	Yes	No	No	No	No	No
Lithuania	Yes	No	No	No	No	No
North Korea	Yes	No	Yes	No	No	No
Kuwait	Yes	No	Yes	Yes	No	No
Latvia	Yes	No	No	No	No	No
Lithuania	Yes	No	No	No	No	No
Luxembourg	Yes	Yes	No	No	Yes	No
Malaysia	Yes	No	Yes	Yes	No	No
Malta	No	No	No	No	Yes	No
Mauritania	No	No	No	Yes	No	No
Morocco	No	No	Yes	Yes	No	No
Netherlands	Yes	Yes	Yes	Yes	Yes	No
Norway	Yes	Yes	Yes	Yes	No	No
Pakistan	No	No	No	Yes	No	No
Poland	--	Yes	Yes	Yes	Yes	Yes
Portugal	Yes	No	Yes	No	No	No
Romania	Yes	No	No	No	No	No
Russia	Yes	No	No	No	No	No
Senegal	No	No	No	Yes	No	No
Slovak Rep.	Yes	Yes	Yes	Yes	Yes	No

(continued)

Country	**Poland**	**Czech & Slovak Republics**	**Hungary**	**Romania**	**Bulgaria**	**Albania**
South Korea	Yes	No	No	Yes	No	No
Spain	Yes	Yes	Yes	No	No	No
Sri Lanka	No	No	No	Yes	No	No
Sudan	No	No	No	Yes	No	No
Sweden	Yes	Yes	Yes	No	No	No
Switzerland	Yes	Yes	Yes	No	Yes	Yes
Thailand	Yes	No	Yes	No	No	No
Tunisia	No	No	Yes	Yes	No	No
Turkey	Yes	No	No	Yes	No	Yes
Ukraine	Yes	No	No	No	No	No
United Kingdom	Yes	Yes	Yes	Yes	No	No
United States	Yes	No	No	Yes	Yes	Yes
Uruguay	Yes	No	Yes	Yes	No	No
Vietnam	Yes	No	Yes	No	No	No

9. Assessment

Reform legislation has been enacted at a prodigious rate throughout the region for the last three years and most countries surveyed here have done their best to make things easier for foreign investors. For instance, in Russia, in just over the second semester of 1992, the Supreme Soviet adopted more than 1,000 measures; in addition, dozens of presidential decrees or ministerial measures were sometimes passed during a week.

Thus, the achievements made in the legal aspects of FDI have been remarkable. They have been so substantial in some countries that these countries have already moved into the consolidation phase, improving the original laws and correcting the faults. The first laws to be enacted in each country were usually laws on foreign investment. In some countries, however, such as the Czech and Slovak Republics and Hungary, the laws have been subsumed into the corporate and other laws affecting domestic investors and business. Consequently, while in most countries the necessary legal and regulatory basic framework is already in place, the quality of the legislation is, variable, even within a single country where conflicts of competence may arise between local and central government. This is the case in the Federation of Russia where the autonomous Republics and regions have adopted more than 16,000 legal measures since the end of the Soviet Union, including laws on foreign investment and privatisation. This tendency towards the decentralisation of decision-making power in the fields of foreign investment and privatisation may complicate foreign investment activities. In order to attract more foreign investment, the Russian authorities signed a decree in September 1993 forbidding any other authority than the Federal ones to issue regulations putting restrictions on the use of foreign capital.

The laws affecting business in the Czech, Hungarian, Polish and Slovak Republics now offer a sophisticated legal system, although, as everywhere, there are faults and gaps. Countries such as Romania, Bulgaria, Estonia, Latvia, Lithuania and Russia offer a patchwork of laws, some modern and rather sophisticated, others rather peculiar. Belarus, Ukraine, Kazakhstan and Albania have put in place the basic essentials for business and foreign investment.

Even though the quality of the legislation is variable from one country to another, there is still room on a number of points for improvement to the legal framework for foreign investment throughout the region.

Registration and licensing procedures in Albania, Romania, Russia, Belarus, Ukraine and in the three Baltic states could be simplified. In Albania and Lithuania, the licensing procedure is cumbersome and is a way of censoring industrial projects. In Russia and Ukraine, far too many of the sectors subject to licensing are legally ill-defined. The Council of Ministers is legally empowered to amend unilaterally the list of activities that are subject to licensing. In addition, for Albania and Ukraine, the authorisation procedure can be be very long and far too many ministries may be involved.

The sectors barred to foreign investment are equally unclear in Romania and Albania. It would be helpful, for instance, if the formula "liable to have consequences for the moral order and health" used in Romania's and Albania's laws could be clarified.

Too many sectors are submitted to authorisation or barred to foreign investment in the three Baltic states as well as in Ukraine.

Discretionary grant of tax concessions, especially without reference to eligibility criteria, raises the question of transparency. Procedures in Poland, the Slovak Republic, Bulgaria and Ukraine frequently are -- or may be -- discretionary, whereas the treatment of foreign investors ought to be as transparent and fair as possible. Procedures, rules and criteria should be clarified within the framework of harmonization of the tax incentives offered to foreign investors.

Whereas the Czech Republic decided not to offer any special tax incentives to foreign investors since the beginning of 1993 and Hungary has decided to no longer offer tax concessions after 1993, Poland holds out the promise of further tax concessions for firms having invested ECU 2mn in equity and which invest in production for export or in those parts of the country worst hit by unemployment or which introduce new technologies, while the Czech Ministry for Trade and Industry was revisiting at the very end of 1993 the non-incentive policy of the government.

International experience suggests that such concessions do not necessarily stimulate foreign investment. Foreign investors' main concern is with political and macroeconomic stability and long-term profitability. The danger of conflicts in the region, domestic markets that are still limited, local partners' cash shortages, the burden of foreign debt and deficient infrastructure all take away from the appeal of these countries for the foreign investor. The factors that influence foreign investors the most are the business infrastructure and the possibility of earning profits proportionate to the risks run. In addition, new tax concessions may discourage potential investors because it will inevitably take longer to process applications for them.

While the rules governing repatriation of profits have been liberalised everywhere, a number of improvement could be made. For instance, in Hungary, companies' foreign employees may repatriate only 50 per cent of their wages in the currency of their country of origin; in Albania, the repatriation of profits and other payments is permitted on condition that this does not have a negative impact on the country's external balance.

In addition, in some countries, the legislation on the privatisation of state enterprises allows the successor company to inherit all obligations and the rights of those enterprises. This has significant consequences for issues of legal responsibility for environmental damages. Potential foreign investors may object to accepting responsibility for environment damage. In the Czech Republic, however, newly established companies are not liable for environment damages made by previous owners.

Chapter III

Privatisation and the restitution of property

This section analyses restitution, privatisation and ownership rights (including intellectual property rights) with important areas such as implications for foreign investment.

In the CEECs, the Baltics and the NIS, privatisation and the restitution of property affect foreign direct investment, and vice-versa. Almost all these countries consider privatisation as basic to attracting foreign investment, seeing it as a quick way to bring in Western initiative, private enterprise, know-how, and technology to ginger up the economy and at the same time to create an entrepreneurial corps.

Privatisation involves a transfer of property rights. But it is not however a change of ownership: privatisation actually creates ownership. Restitution is akin to privatisation in that it involves handing back to private ownership assets that had been nationalised when Communist regimes came to power. However, handing back to the original owners or their heirs assets taken over by the old Communist regimes can be an obstacle to inward investment when it takes the form of restitution of actual property and not financial compensation.

Though the countries surveyed agree that privatisation is an excellent way to attracting investment from abroad, certain conflicts and problems may arise. For example, the aim of attracting foreign capital may conflict with the new political leaders' desire not to sell national assets too cheaply to foreigners. Popular mistrust of foreign investors may impel governments, on the pretext of "defending the national interest", either to refuse foreign participation in key sectors of the economy or to give nationals priority. There may be some doubt as to the authorities' ability to value assets correctly in carrying out ambitious large-scale privatisation programmes, whereas foreign investors naturally want valuation to be accurate and thorough.

1. Restitution of assets

Foreign entrepreneurs may well be discouraged by the prevailing uncertainties about the restitution of property and real estate and, more broadly speaking, by the limitations that could be set on their right of ownership of real estate of firms in which they would like to invest. In other words, restitution may hamper the process of establishing clear-cut ownership rights and so freeze inward investment flows until such time as the claims of past owners are cleared up.

Restitution programmes have reached different stages in various countries concerned. In Hungary, the Czech Republic, the Slovak Republic, Bulgaria and the three Baltic states, laws and regulations have now more or

less clarified the legal status of ownership, whereas in Poland, Romania, Albania and Russia this has not yet been fully achieved.

In Bulgaria, the Acts of 11 December 1991 and 5 February 1992 (covering housing and and businesses including cinemas, printworks and food shops), complement earlier legislation which dealt only with land, and a new law on land ownership and use, amending that of 1991, was passed in 1992. Also, in October 1993, the Council of Ministers adopted a bill regulating the restitution of the forests and the forest estates nationalised in 1947 to individuals, cooperatives, churches, monasteries, legal persons and municipalities. In Albania, a law on restitution and compensation was passed at the end of the first quarter of 1993, while in Romania, a restitution law was expected to be passed before the end of 1993.

Those governments which have already enacted legislation have sought to limit uncertainties as to property rights by imposing deadlines for the claims that former owners can submit for restitution or compensation. In Hungary, 1.2 million people have put forward claims for compensation for enterprises, housing and land which were confiscated by the Communist regime. In the former CSFR, under the Act of 21 May 1991, the deadline was 31 October 1991 for real estate (including non-agricultural businesses) and the end 1992 for the farming sector. In Lithuania, the deadline was May 1992. In Bulgaria, the ownership restitution laws fail to set deadlines for the filing of restitution claims concerning small businesses and immovable property.

Judging by the legislation already enacted and planned, a majority of countries have tried to avoid large-scale restitution, preferring to offer financial compensation instead:

-- In the Czech and Slovak Republics, under the regulations resulting from the laws on major restitutions, financial compensation is the general rule in the business sector. However, some property owned by enterprises with foreign capital participation might be restored to their previous private owners after 10 years.

-- In Hungary, only agricultural land can be restored to a former owner and only on the condition that he or his direct descendants continue to cultivate it for at least five years. About 10 per cent of farm land is likely to be handed back. In other sectors -- that is to say, mainly in the small business sector -- financial compensation is offered, primarily in the form of a distribution of "compensation bills" that confer entitlement to shares in the capital of privatised enterprises. Since medium-sized and larger businesses were nationalised before 1949, they are therefore not covered by the three Hungarian Compensation Acts.

-- In Poland, all post-Communist governments have resisted demands for a general restitution of confiscated property. The estimated number of claims, which could eventually reach 500,000, has played a major role in this position: since the state would not be able to sell disputed property -- a task that could take a decade -- acknowledging the legitimacy of restitution claims could bring FDI to a halt. In

Romania, it was announced at the end of 1991 that future legislation would allow only for financial compensation.

- Bulgaria has favoured the restitution of property that had been confiscated from 1947 to 1952. The law of February 1991 on the restitution of publicly-owned land aims to guarantee the right of Bulgarian citizens to own land by rapidly re-establishing the rights they had prior to collectivisation of 1946. By the early August 1992 deadline, 1.7 million applications for land restitution had been filed, claiming nearly 5.6 million hectares of the 6.2 million hectares of agricultural land. Also, the laws of December 1991 and February 1992 authorised the restitution of small businesses, restaurants, immovable property including the industrial and mining sectors, and other buildings to their former owners, while the Act on the restitution of the property of the Catholic Church, adopted at the end of 1992, covers movable and immovable property confiscated before 1953.

- In Albania, a restitution/compensation law was recently passed by Parliament. This law grants both compensation and restitution rights under certain conditions.

- In 1991, Estonia adopted a program for restitution of property rights and/or compensation to former owners that takes priority over sales. Over 200,000 restitution and compensation claims filed to date pose considerable road-blocks to rapid privatisation and foreign involvement in the process of reform. However, the problem is less acute in the cases of larger companies which were generally built after 1940. It is more pronounced in small and medium-sized enterprises which are often located in the houses and buildings of prior owners.

- Latvia has favoured compensation for large property confiscated by the previous regime, even though some enterprises expropriated by the Soviet government after 1940 are being returned to their original owners.

- In Lithuania, property rights can be restored to citizens of the Republic of Lithuania and their heirs permanently residing within the Republic. In certain cases, the government may compensate claims with vouchers, securities, equivalent properties and other mechanisms. Over 400,000 claims to restitution of property rights were registered by the May 1992 deadline.

The governments of Eastern Europe, the Baltic States and the NIS need some time to assess properly the legitimacy of claims for restitution or compensation. Hungary, for example, has considered that it might take until the end of the first semester of 1994 to examine and resolve all the claims for compensation. In March 1993, only 35 per cent of the 1.2 million claimants had so far received compensation. In Estonia, although the deadline was in early 1992, the claims (over 200,000) filed have not yet been processed. In other

countries restitution has proceeded rather quickly. For instance, in Bulgaria, more than 66 per cent of shops, 94 per cent of workshops, 41 per cent of dwellings and 30 per cent of industrial projects eligible had been restituted in early June 1992. In Lithuania, by June 1992, 50 to 60 per cent of residential flats had been transferred to private ownership.

2. Privatisation

The CEEC and NIS authorities have adopted several methods of privatisation that give access to foreign investment in different ways.

Privatisation programmes

Poland, the Czech Republic, the Slovak Republic, Hungary, Romania, Bulgaria, Albania, Russia, Kazakhstan, Ukraine, Estonia, Latvia and Lithuania distinguish between small-scale and large-scale privatisation. The small-scale privatisation covers, for instance, retailing and small service businesses (tourism and catering) and, to some extent land use. It can also include units of larger enterprises. In most countries small scale privatisation has proceeded rapidly.

The large-scale privatisation concerns large industrial firms, for instance in the mechanical engineering, chemicals or agro-food sectors. The privatisation of large enterprises is more complex than small-scale privatisation: large companies need more capital, many lack flexibility in the face of change and have been more affected by the collapse of both foreign and domestic markets. Moreover, the search for foreign partners is proving to be difficult. The procedures for both small-scale and large-scale privatisation used in each of the countries are described below, at the end of this section.

Privatisation schemes using a variety of techniques have been drawn up in almost all countries. The four most common are direct sale, public offerings, issuing vouchers or certificates of ownership, and Polish-style "liquidation" of state enterprises. The transformation of a public enterprise into a private one can be done using a combination of several techniques, as in the Czech and Slovak Republics: the capital of an enterprise can be entirely or partially distributed using the voucher method; by direct sale to foreign or local investors; or by auction. Thus, in Romania, in 1992, 50 per cent of one company’s shares was sold via a public offer, while the remaining 49 per cent were sold to strategic investors (including foreign investors) a combination of a direct sale and a public share offering.

Limits to Foreign Involvement in Privatisation Programmes

While all governments have declared that they are seeking to encourage foreign investors to participate in the privatisation process, some programmes and methods exhibit caution about the extent of the foreign involvement.

In some countries, preferential conditions apply for the staff of an enterprise being privatised, usually with the goal of ensuring social justice. This has been mostly the case in Poland, Hungary, Bulgaria, Albania, Russia, Ukraine, Lithuania.

-- In Albania, small companies are predominantly sold to employees.

-- In Bulgaria, the Law on Privatisation, which came into force in May 1992, gives preferential participation to personnel in the privatisation process. Employees of state-owned joint-stock companies and limited liability companies are offered up to 20 per cent of the equity capital at half price (registered shares without voting rights for three years). Employees can also participate in public auction/tenders; if successful, the issue price is discounted by 30 per cent.

-- In the Czech Republic, the coupon system used for large-scale privatisation has led to about 95 per cent of the capital being privatised going into the hands of nationals. Management/employee buy-outs have also taken place in the Czech Republic in combination with trade sales, without special terms being extended to employees.

-- In Hungary, some provisions of the legislation offer special incentives to employees, while other acts encourage Hungarian managers to participate in the company being privatised. Moreover, the credit-voucher privatisation plan proposed by the Ministry of Privatisation, if accepted by the Parliament by the end of 1993, could deter foreign investment.

-- The Polish Law on Privatisation gives special treatment to employees of the concern to be privatised: they are entitled to receive up to 20 per cent of a company's share capital on preferential terms (i.e. half the price set for Polish citizens on the first day of the sale). Privatisation by "liquidation" also favours the workforce. Medium-sized and small state-owned enterprises are privatised mainly through liquidation on the basis of the State Enterprises Privatisation Act or the State Enterprise Act. State enterprises are transformed into a joint-stock company. Workers and managers agree to buy or lease the firm on a preferential basis. Foreign investors are allowed to purchase the remainder. Even then, it is still not certain that they would do so, since the personnel can lease the firm on advantageous financial terms. Data demonstrate this that the vast majority of the firms privatised through "liquidation" in 1990-91 were subject to "insider" transactions. Privatisation through liquidation is designed to:

   i) sell a whole enterprise or its parts to prospective investors;

   ii) transfer a whole enterprise or its parts as a contribution in kind to a company;

   iii) lease an enterprise, or its parts.

In accordance with the above privatisation methods leasing might actually be an obstacle to foreign investment.

-- Romania and Estonia are kicking off their privatisation programmes with pilot manager and employee buy-out projects. In Lithuania, a first privatisation program in 1991 enabled employees to buy up to 10 per cent of their firms.

-- In the Slovak Republic, the government has favoured enterprise insiders in privatisation since 1993.

-- In Belarus, half of the Republic's state property liable for privatisation should be handed over citizens free of charge.

-- In Kazakhstan, since July 1993, every citizen of the republic living permanently there has been entitled to receive 100 privatisation investment vouchers.

-- In Russia, foreign involvement in the process of privatisation is complicated by both employee share ownership plans and by the phenomenon of "de facto" ownership of enterprises. Enterprise managers, workers and local administration have been able to exercise ownership rights over their assets under control.

-- In Ukraine, enterprise employees have the right to purchase shares in privatised enterprises, according to a quota. Moreover, it is expected that at least 10 per cent of state enterprises will be given up to factory heads virtually free of cost.

Other rules create impediments to foreign investment. In Latvia and Estonia, under legislation governing small scale privatisation, new owners are obliged to run the enterprise as it was previously constituted for 5 years. In a second group of countries, special authorisation is needed by foreigners to invest in a privatised company. In other countries, lists have been established of privatised enterprises either barred to foreign investment or offered to foreign investors. Finally, in Hungary, while some opportunities for acquisitions exist in the telecommunications, oil and gas, transport and pharmaceutical sectors, the government's decision to retain at least a 25 per cent share plus one vote in enterprises in these sectors might deter some potential foreign investors.

Foreign involvement with authorisation

-- In Albania, if a foreign investment of any size is to be made in state-owned enterprises, the Albanian state-owned enterprise must ask for permission from the relevant ministry.

-- In Poland, the acquisition or receipt of shares, or the receipt of rights attached to shares, by a foreign party, in an existing company having its registered office on the territory of the Republic of Poland, may require a special permit from the Ministry of Privatisation. This is the case if such a company is active in one of the following areas: operation of sea-ports and airports; dealing in real estate or acting as an intermediary in real estate transactions; wholesale trading in imported consumer goods; defence industries; provision of legal services. If the state-owned company wants to allow one of its sub-divisions to be an asset to the joint-venture with the foreign investor, then authorisation from the Ministry of Privatisation is needed.

-- In Kazakhstan, foreigners will be allowed to buy Kazakh assets after obtaining a license from the state.

-- In Russia, government approval is required for foreign investment in enterprises: (1) with a dominant market position; (2) with more than 10,000 employees or book value assets exceeding 200 million rubles; (3) undergoing military conversion; (4) in high technology or insurance or securities sectors; (5) in the fields of energy, minerals and precious stones or (6) of small size in industry, construction and road transport (less than 200 employees and assets of less than 1 million rubles --at the time of drafting). Furthermore, approval by the Federal Committee on Foreign Investment is required for foreign acquisition of more than 50 per cent of the shares of an enterprise worth more than 50 million rubles (at the time of drafting).

-- In Ukraine, except in the case of foreign participation in an official privatisation contest or auction, to invest in municipal property, foreign investors must obtain approval of the respective municipal property management bodies for the procedure of purchase.

Privatised enterprises barred to foreign investors

-- In Hungary, a list of enterprises in which only a minority private holding is permitted was approved in September 1992. On the basis of this list, which does not discriminate between foreign and national investors, private owners are not allowed to buy into some enterprises, such as companies in the national security sector and public utility companies.

-- In Lithuania, so far, privatisation has been mainly available to domestic investors, even though in October 1991 a list of 144 specific enterprises for sale to foreign investors was approved by the Lithuanian government. These sales progressed slowly throughout 1992 and 1993, apparently due to problems in informing foreign investors abroad of these sales.

-- In Kazakhstan, foreigners cannot yet obtain ownership of existing state enterprises and organisations. Under the governmental privatisation program for 1993-1995, foreigners are allowed to buy Kazakh assets after obtaining a license from the state.

-- In Russia, foreign investors can participate to the privatisation of enterprises in trade, public catering, road transport, construction firms and small industries to the extent the privatisation is achieved through competitive bidding. Legal exceptions to the principle of the freedom for foreigners to bid for shares do exist. In spring 1993 the State Property Committee had reportedly drawn up a list of nearly 6,000 enterprises that could be transformed into joint-stock companies with foreign capital participation.

-- In Ukraine, since the process of privatisation is at its very initial stage, it remains to be seen whether or not certain state-owned companies, such as those in the energy sector, will be sold to foreign investors, even though the Foreign Investment Law provides that "foreign investors may take part in the privatisation of state and municipal enterprises" (Article 41).

3. Methods of privatisation and foreign direct investment

Direct sales

Direct sales take three forms: i) sale to one or several selected foreign investors, ii) sale to the highest bidder (domestic or foreign investor), and iii) public auctions.

Sale to selected investors

Direct sales to foreign investors pose no special problems. The appropriate government authority finds sound foreign investors to whom blocks of shares are sold. In Poland, the government's successive privatisation schemes allow for direct sales to foreign investors. The Czech Republic planned in 1991 to sell at least 10 per cent of its large State-owned enterprises directly to foreign buyers making a reasonable offer. Hungary has selected and sold a number of large enterprises of potential interest to foreign buyers. In Ukraine, some shares of enterprises being privatised will be kept by the State to be sold to foreign (and domestic) investors. Thus, for example, the Ukrainian Cabinet had endorsed in August 1993 a list of state-owned enterprises to be offered for privatisation with the involvement of foreign investment. In the Slovak Republic direct sales to a predetermined owner have been minimally used since the independence, mainly for reasons of transparency.

Sale to the highest bidder

Sales to the highest bidder are generally conducted without preference to domestic over foreign bidders. They do not pose any problem to foreign investors since they consist in the transfer of ownership of assets to whoever puts in the highest bid (in principle, domestic and foreign investors). This method is used in Poland, the Czech Republic, the Slovak Republic, Hungary, Romania, Bulgaria, Albania and Lithuania and some NIS such as Ukraine. Five examples:

-- In Albania, the Law on Sanctioning and Protection of Private Property, Free Enterprise, and Independent Private Activities and Privatization passed on 15 August 1991, stated that the method of sale of state enterprises in Albania would be by auction or, where it has proved unsuccessful, by direct sale.

-- In Hungary, once selected and their value assessed by the competent government department, large enterprises are sold to the highest bidder. The vast majority of privatisation has been through trade sales (tenders). As regards agricultural land, Hungarian bidders are usually given preference, and soft loans are made available to them. A limit may be set to the amount of land which any one person (Hungarian or foreign) may purchase.

-- Romania authorises investors (domestic or foreign) to purchase a small business directly. Foreign bidders must submit a project; Romanian bidders are usually given preference.

-- In the Slovak Republic preference is given to public tender for transparency reasons. In cases where foreign capital is needed, the invited participants are generally prestigious foreign firms whose reputations guarantee a high level of professionalism.

-- In Ukraine, where foreigners are concerned, the state enterprise should be acquired by tender or by auction. The winner of a competition is selected by a committee set-up by the local privatisation authority; the buyer who offers the best prospects for the continued operation of the enterprise has an advantage.

Sale by public auction

In contrast, sales by public auction can pose an obstacle to foreign investors because national bidders are usually given preference. This method is mainly used in small privatisation (90 per cent of the cases).

-- In Albania, auctions can only be used in the case of small shop or family concerns and not for the larger enterprises of which there are approximately 40. Companies are predominantly sold to employees; those not sold to employees are sold through public auctions.

-- In Bulgaria, the bodies in charge of the privatization program (the Council of Ministers or a body authorised by it and the privatization agency) decide which enterprises (shares or stock, entire enterprises, parts of enterprises, or assets of liquidated enterprises) can be sold through auctions. Shops, restaurants, workshops, offices, as part of the "small" privatisation process, have been auctioned to both Bulgarian and foreign natural and legal persons since 1991.

-- In the Czech Republic, when small firms are auctioned, national bidders take precedence. If none is forthcoming, bidding is thrown open to offers from abroad. A Czech purchaser must wait two years before being allowed to the sell to a foreign buyer a business he has acquired through this procedure.

-- In Hungary, small businesses and restaurants are auctioned, and some larger firms may also be sold by public auction.

-- In Latvia, small businesses are being sold at public auctions to Latvian and foreign investors.

-- In Lithuania, when the sale price of the enterprise to be privatised is less than 500,000 roubles, the usual method of privatisation is public auction. So far, this method of privatisation has been available mainly to domestic investors.

-- In Poland, both public auctions and public offerings (see below), and direct sales, were used for the first privatisations of large state enterprises in 1991.

-- In Romania, the Act of 14 August 1991 on large privatisation provided for an initial phase of privatisation of thirty large state enterprises selected by the National Privatisation Agency, over the year 1992. It was planned to sell part of these enterprises during a first round of auctions which was not supposed to be open to foreign investors. In the absence of a Romanian buyer (natural or legal person), a second round of auctions was to be held; foreign investors wishing to bid had to apply to the relevant authority for permission to do so.

-- In the Slovak Republic, public auction will be used in cases where price is the most important economic parameter.

-- In Russia around 20 per cent of the small scale enterprises privatised at the beginning of 1993 were sold by auction (45.2 per cent were sold by tender).

-- In Ukraine, direct auction sales apply mainly to small enterprises and property in the course of construction. Foreigners may participate in auctions.

Voucher method

The voucher method, used for the privatisation of some large firms in Poland, the Czech Republic, Romania, Belorussia, Russia, Kazakhstan, Ukraine, Latvia, Lithuania, Estonia and, to a more limited extent, in the Slovak Republic, by-passes foreign bids. A credit-voucher privatisation strategy, which has been proposed by the Hungarian Ministry of Privatisation in April 1993, might also actually deter foreign investment if actually implemented in 1994.

There are perhaps fewer problems in Romania, where the authorities plan to allow foreigners to acquire up to 70 per cent of the capital of the large concerns to be privatised. In the Slovak Republic, the coupon privatisation method will continue to be implemented throughout the second wave, which is due to start in October 1994, but it will lose the dominant role it had in the first wave which was by the CSFR.

Under preferential recourse to voucher schemes in the three Baltic states, Poland, the Czech Republic, Russia, Kazakhstan, Ukraine and Belarus, foreigners are usually able to buy only the shares that nationals are ready to sell -- and then only if the law permits immediate resale by national purchasers and where a stock market exists.

In the Czech Republic, Estonia, Latvia, Poland, Romania, Slovak Republic, Belarus, Kazakhstan, Russia and Ukraine, the systems are as follows:

-- Czech Republic - Czech nationals take precedence. For a fixed price of 1000 crowns (28/US$), each adult can buy a book of coupons whose value, in terms of future shares, is set at 30,000 crowns. Each coupon corresponds to a given number of shares in the firms in which the holder chooses to invest. Shares not sold to a Czech buyer may be sold to foreign investors. A national purchaser may immediately resell shares to a foreigner.

-- Estonia - The government in 1993 was working on the drafting of a comprehensive law covering issues such as the role of vouchers in the privatisation process.

-- Latvia - The government has envisaged selling 25 per cent of enterprise equity for vouchers.

-- Poland - According to the Act on National Investment Funds and Privatisation of 1993 (Mass Privatisation Programme) the State Treasury contributes 60 per cent of the equity of the company in which it is the sole shareholder to the created funds. Up to 15 per cent of the remaining 40 per cent is transferred to employees free of charge. The remaining 25 per cent of the equity is to be used by the Treasury for social security purposes and as compensation share certificates. The shareholders' certificates in the funds are to be distributed among adult Polish citizens on a payment basis and a cannot exceed 10 per cent of the average monthly wage announced by the President of the Central Statistical Office.

-- Romania - The Romanian law distinguishes two different methods of sale of enterprises selected for privatisation:

1) The Act of 14 August 1991 provides that 30 per cent of the total capital of the large State-owned enterprises selected for privatisation must be distributed to Romanian nationals in the form of vouchers (referred as "certificates of ownership") which may not be sold on to foreigners for five years. The Romanian authorities have estimated that 73 per cent of the population (17 million people) will receive certificates. Holders of coupons will have five years to convert them into shares. If they fail to do so, the coupons will be converted into shares that foreign investors will be free to buy.

2) The remaining 70 per cent of capital is to be privatised over a seven-year period, i.e. it is converted into shares for which foreigners may bid. Once a Romanian buyer has converted his vouchers into shares, he may sell those shares to a foreign buyer if he wishes.

-- The Slovak Republic - Coupon privatisation is given preference in order to avoid the risk derived from concentration of ownership through privatisation investment funds. A national may immediately resell shares to a foreigner.

-- Belarus - The government contemplated in 1993 the introduction of a plan to distribute privatisation vouchers to the population. This plan would entitle all citizens to own a stake in state enterprises. Half of the republic's state property liable for privatisation would be handed over to citizens free of charges.

-- Kazakhstan - A significant proportion of the shares of the firms to be privatised are to be issued free to workers and pensioners through coupons in national privatisation funds following the Romanian and Czech and Slovak models. However, unlike privatisation vouchers in Russia, the coupons cannot be resold, but people are allowed to transfer them. In November 1993, Kazakhstan began distributing its first privatization vouchers.

-- Russia - Privatisation is to be achieved partly through the system of vouchers. Vouchers for a fixed amount are to be transferred every year to nominal privatisation accounts to be opened for all Russian citizens. These vouchers which may be traded may only be used to buy the stock of enterprises undergoing privatisation.

-- Ukraine - A significant proportion of the shares of small firms to be privatised will be issued free to all citizens through privatisation certificates with a nominal value of URK 30,000 that eventually will become negotiable instruments. Foreign investors, under the Law, are not encouraged to participate in the small-scale privatisation which was due to start in May 1993.

In Hungary, the government has contemplated the introduction of a broad-based voucher-type programme since spring 1993. As plans stand at the time of writing of this study, an average Hungarian family would receive 2 million forints worth of non-transferable credit vouchers for 40,000 forint (98 forint/$). In turn, it would be able to bid in sales of state-owned assets, either individually or in groups. The Hungarian privatisation credit vouchers would be different from the Czech, Russian and Ukrainian vouchers, in that the purchase price of the credit vouchers would have to be paid back in ten to fifteen years.

4. Ownership, rental and leasing of real estate and land by foreign investors

If foreigners are allowed to acquire real estate and land, their investment will be more attractive in the long term, and it is more likely that the profits they make will not be taken out of the country. For the foreign investor, this has two aspects: first, ownership and other rights necessary for the successful running of the wholly or partly-owned privatised, purchased or newly-established business; and second, the purchase of land or real estate for personal purposes.

All the countries surveyed seek to protect their national assets against foreign speculators, whereas they are quite ready to allow foreign business investment. All countries allow rental and leasing by foreigners (with certain restrictions in some cases).

Ownership rights on land and real estate for foreign investors

The foreign investors' ownership rights in the countries surveyed are: i) to invest for speculative purposes or to buy a home; ii) to acquire property otherwise than under a privatisation project; iii) in the case of investment under a privatisation project, to purchase the assets necessary to the business.

- Albania - Foreign natural or corporate persons are not allowed to own land or buildings. However, they may rent them. The Council of Ministers is currently responsible for laying down the rules for leasing and rental. The right to buy buildings for business activities is expected to be granted under the new company law.

- Bulgaria - Home ownership by a foreigner is allowed on the condition that the house is built by the owner (a building permit is required). Purchase of real estate for business purposes is subject to licensing (Acts of February 1991 and January 1992). The Bulgarian authorities usually prefer to lease rather than sell real estate. An Act on privatisation and redistribution of real estate property came into force in February 1991. It prohibits certain land ownership by foreigners (lakes or ponds, underground mineral resources, forests); however, they are allowed to buy other non-farm land. Companies in which the foreign holding does not exceed 50 per cent can buy farm land on the same legal basis as entirely Bulgarian companies.

-- Czech and Slovak Republics - A foreigner may not own a home. Companies incorporated under Czech or Slovak law may own land and real estate for business purposes.

-- Estonia - Foreign legal and natural persons are not allowed to own buildings. As regards land ownership, the April 1993 amendments to the Land Reform Act allow foreign entrepreneurs to purchase land in Estonia, in connection with a specific investment.

-- Hungary - Acquisition of real estate by a foreign natural or legal person for private purposes is subject to the Foreign Exchange authority license, which is usually refused. No authorisation is required, however, when the purchase is for business purposes. Rural land cannot be owned by foreign investment enterprises or foreign citizens. However, when an enterprise is privatised, a foreign investor has the same right of ownership as a national as regards land and premises necessary to production and the running of the business (if the land was state-owned at the moment of purchase of the privatised enterprise). Since the end of last year, the Hungarian parliament has been considering a draft law which would simplify the procedures for acquiring real property, including land by non-resident, legal and physical persons. The draft legislation, if passed, would give the possibility to non-residents of acquiring arable land under certain conditions as well as plots of land.

-- Latvia - Currently, neither nationals nor foreign investors can own land. The ownership of natural resources, houses and apartments is available only to citizens of the Republic of Latvia. A Law on property rights is being drafted.

-- Lithuania - There are no laws yet in place which allow for private ownership of Lithuanian land. Foreign investors cannot own buildings and premises. In addition, mineral resources, inland and territorial waters, forests, flora and other national resources are categorised as the "national wealth" of Lithuania and the exclusive property of the Republic of Lithuania.

-- Poland - Under the terms of an Act of 1920, amended after the fall of communism, a foreigner may purchase real estate or land if the Ministry of Internal Affairs (which must reply within two months to his application) agrees. The same procedure governs land and real estate belonging to a privatised enterprise. Discussion was underway in the Polish parliament at the time of writing this study to free up the conditions for private land ownership by foreigners in Poland.

-- Romania - A foreigner is allowed to acquire land and real estate to the extent that the property is needed for the activities of the company. Law 18/1991 allows any incorporated company (including those that are entirely foreign-owned) to purchase land. However, foreign companies that are not registered in Romania are not allowed to buy land.

-- Belarus - Foreigners cannot purchase land and buildings for personal use. However, the December 1991 Law on investment allows enterprises with foreign participation to own property, houses and plots of land.

-- Kazakhstan - Kazakhstan’s privatisation program does not envisage a private market in land.

-- Russia - Foreigners cannot purchase land and real estate for themselves. Companies with foreign participation can lease land and own buildings, installations and fixed industrial equipment for business purposes. While the draft Law on Land of 2 November 1992 permits foreigners to acquire land for investment purposes, land ownership itself is not allowed by the July 1991 FDI Act and the Land Code. However, according to a Presidential Decree in June 1992, foreigners buying privatised companies are able to own the land previously owned by the company and even purchase adjacent land for corporate expansion. According to another Presidential Decree, a foreign investor can purchase privatised land.

-- Ukraine - Firms with foreign participation may own buildings and other capital investment, but cannot purchase land, which remains a state monopoly.

Rental and leasing

Rental and leasing are possible in all countries, sometimes with restrictions:

-- In Albania, the rules applying to leasing and rental are laid down by the Council of Ministers, since legislation on the subject is not yet finalised. Leasing periods are short, usually 5 to 10 years.

-- In Bulgaria, leasing of farms or forest land is subject to special license. Farm land may not be leased to companies with majority foreign ownership.

-- In the Czech and Slovak Republics, leasing is subject to the issue of a special license by the Ministry of Agriculture if agricultural land is to be used for purposes other than farming.

-- In Estonia, leasing of land, buildings, as well as state owned enterprises is allowed.

-- In Latvia, the 1991 Law on foreign investment gives foreign investors the right to use land under leasehold agreements for periods of up to 99 years.

-- In Lithuania, firms with foreign capital may lease buildings and premises as well as plots of land for the construction of buildings. Leases may be fixed for up to 99 years with a priority right to extend the lease.

-- In Poland, the Act of June 1991 states that leasing of state-owned real estate property for more than six months is subject to a license issued by the Ministry of Privatization.

-- In Romania, a state-owned enterprise may lease its production facilities to investors. Foreign investors may lease agricultural land.

-- In Belarus, foreigners and companies with foreign participation who may want to establish individual farms may lease land. The Council of Ministers sets lease prices.

-- In Russia, foreigners and companies with foreign participation can lease land.

-- In Ukraine, firms with foreign capital can lease land for up to 50 years.

5. Protection of intellectual property

Attracting foreign investors requires not only allowing foreign involvement in the privatisation process and in acquisition of real estate and land, but also the transformation of socialist principles of regulation of intellectual property into market economy regulations.

Until recently Central and Eastern European and Soviet laws and practices did not meet international standards of intellectual property protection. In most countries, new legislation has been adopted and the situation is now likely to improve. However, the CEECs are moving faster than the NIS.

Protection of intellectual property in CEECs and the Baltics

Six of the ten surveyed countries have introduced important improvements, such as the new competition law, the new patent law and reforms in copyright law in Bulgaria, and the new patent and competition law in Romania. Poland and Hungary now need to modernise important aspects of patent and copyright law, while Estonia, Latvia and Lithuania have only provisional regulations, except Estonian and Latvian Trade Mark Acts passed in 1992 and 1993, respectively, and Lithuanian legislation on unfair competition.

The Czech and Slovak Republics have achieved the biggest improvements in almost all fields of intellectual property with the exception of trademark law.

The Parliament of the Czech Republic was expected to adopt a new Trade Mark Act in 1993 which would incorporate EC guidelines on the legal protection of trademarks.

The new patent laws of the Czech Republic, Slovak Republic, Romania and Bulgaria provide a comprehensive protection for products and processes in the field of chemical and pharmaceutical inventions. In the field of biotechnological inventions, the new regulations and the reform drafts are oriented toward the current legal situation in Europe. In Poland, the Polish Act Revising the Act of 19 October 1972 on Inventions passed in October 1992, aims to improve the position of inventor.

As regards trademark law and unfair competition law, Bulgaria, Romania, the Czech Republic, Estonia, the Slovak Republic, Hungary and Latvia have introduced new unfair competition laws or regulations. Poland, a draft unfair competition law was under consideration in the parliament at the beginning of 1993. Protection for unregistered trademarks is ignored in Romania and in Albania, whereas the other five countries are more open to the need for such a protection for well-known marks.

As regards the protection of secret know-how against unauthorised disclosure, a sufficient legal regulation exists in six CEECs (not in Albania), even if Romania apparently restricts protection against unauthorised disclosure of trade secrets by employees. A comprehensive and modern regulation, also including protection against unfair eavesdropping and business espionage, is to be found in the new Bulgarian competition law. The Czech Code of Commerce and the Slovak Code of Commerce go further by declaring trade secrets protectable economic property, of which the enterprise has the right of exclusive disposal. A similar regulation exists in Hungary and Poland.

For copyright provisions (neighbouring rights included) in Bulgaria, Poland and Romania, ameliorations are expected in the near future. The reformed Bulgarian copyright law will soon replace the 1951 law. Its main aim is to curb piracy in literature, art, science, music, films, photography, architecture, graphics and computer software, and it regulates different types of copyright contracts.

In 1992 Estonia passed a Copyright Act which draws on the 1971 Paris version of the Berne Convention for the Protection of Literary and Artistic Works and on recommendations of WIPO. Chapter VIII, on the protection of performers, producers of phonograms and broadcasting organisations (neighbouring rights), follows the provisions of the 1961 Rome Convention.

In the field of protection for computer programs, the response of the CEECs varies greatly. Bulgaria, Romania, Albania and the three Baltic states did not have any regulation in this field in 1993, while Poland, Hungary and the Czech and Slovak Republics already had adopted a regime essentially comparable to existing regulations in other western countries.

As regards semiconductor products, the legal situation also varies from one country to another. A law providing protection for "layout-designs of semiconductors" has not yet been adopted in Albania, Bulgaria and Romania or in

the Baltic states, whereas the Czech Republic, the Slovak Republic, Hungary and Poland (Act on the Protection of Semiconductor Chip Topographies of 30 October 1992) already have adopted laws in this field.

Protection of intellectual property in the NIS

The NIS are lagging behind their Central and East European neighbours. The Republics of Kazakhstan and Belarus passed new legislation in the field of industrial property in 1992 and 1993; Ukraine in 1993 had only provisional regulations, and where new laws or regulations have been adopted, they usually contain some provisions which are not typical of traditional western laws, even though the new regulation and legislation is based on western standards. This is attributed to the transitional character of the local economies.

Belarussian legislation in the field of industrial property came into force in February 1993, with the adoption of Acts on Patents for Inventions, on Patents for Industrial Designs and on Trade Marks and Service Marks.

Kazakhstan's legislation on industrial property (the Patent Act and Act on Trade Marks, Service Marks and Appellations of Origin) came into force in 1992 and 1993.

Russia is seeking to bring its laws on intellectual property into line with international practice. The general framework for the protection of intellectual property is provided under the Civil Code (as amended) and Principles of Civil Legislation. More detailed provisions are provided by the Law on Trademarks adopted in September 1992. In addition, a copyright law came into force in August 1993. Up to the adoption of this law, the continued absence of a protection in the field of authors' right had tended to hinder the Act on software and database protection of 23 September 1992.

There is a particular need for effective computer software protection given the increasingly important role it plays not only for the computer industry itself but also for a broad range of industries and foreign companies active in the Federation of Russia. More than 90 per cent of programs in use within Russia were –and still are– unauthorised copies. The previous law on authors' rights was rather inadequate to give the necessary protection. Under the new law, copyright protection is extended to cover all computer programs and databases that are the result of the creative activity of the author. However, copyright does not extend to the ideas or principles underlying a protected work, or to those which organise interfaces or algorithms. Nor is an author protected against fully independent creation of an analogous or similar work.

In Ukraine, according to the Article 35 of the Law of Ukraine on Foreign Investment, protection and implementation of intellectual property rights of an enterprise with foreign investment are performed pursuant to the legislation effective on the territory of the Republic. While Ukraine has recently acceded to the Patent Co-operation Treaty and the Madrid Agreement on International Registration of Trade Marks and adheres to the provisions of the Paris Convention, for the time being, regulations are the main source of Ukrainian

industrial property law. The Ukrainian President approved the Transitional Regulations on the Legal Protection of Industrial Property in September 1992, pending the comprehensive Patents Act which is expected to replace them by the end of 1993. These regulations provide protection for inventions, industrial designs and trade and service marks. Patents on inventions are valid for 20 years, while patents on industrial designs and trade mark certificates are valid for ten from the date when the application is filed at the Patent Office (which carries out the examination and registration of industrial property).

Enacting new laws, however, is only part of the problem of protecting intellectual property rights in the economies in transition. Foreign entrepreneurs are also interested in how this new legislation can be effectively enforced. While interim remedies for violations can be granted within 24 hours in the courts in the West, courts in the CEECs and NIS work with less dispatch.

6. Assessment

It may be too early to examine the impact of privatisation policies on FDI performance. Nevertheless, two observations can be made.

First, as to the extent of foreign involvement in the privatisation process, three groups of countries can be distinguished. The first group is composed of countries such as Ukraine, Kazakhstan, and Bulgaria, where the uncertainties with regard to privatisation programmes are very likely to discourage foreign investors. In the second group are countries, such as Russia and the Czech Republic, where privatisation programmes have put the emphasis on distributing vouchers to citizens and/or on preferential treatment of enterprise employees. In this case, foreign capital participation has remained limited, as observed in the Czech Republic. In Hungary, forming a category of its own, privatisation policies follow an open course. At the beginning of 1992, US$ 770 million foreign capital were invested in transformed and privatised companies. This represented some 60 per cent of the total foreign capital that came into the country at that time. During 1992, proceeds from foreign investment in privatisation continued to rise, but at a more measured pace, reaching, cumulatively, US$ 1.7 billion by the beginning of 1993. This represented some 40 per cent of the total foreign capital that came into Hungary at that time. For 1993, the government expected that only 40 per cent of the assets privatised will pass into foreign hands, against 60 per cent in 1992 and 80 per cent in 1991.

The second observation is that large-scale privatisation in the countries that have gone furthest along that road (the Czech and Slovak Republics, Hungary, Poland and Russia) has not always been transparent so far as foreign participation is concerned. Programmes are so ambitious that the administrative capacity to evaluate projects is reaching or soon will reach saturation point. Yet a foreign investor can hardly be content with sketchy evaluation, and all the less so for large-scale operations. Second, in most countries, the enterprise concerned is often heavily involved in the evaluation procedure, which may give rise to doubts about its fairness. Third, foreign investors can be barred from certain sectors in which participation is

restricted to nationals or the public sector. Fourth, direct distribution of shares among the population, as well as indirect give-away through mutual funds, create dispersed ownership with non-professional investors, who cannot perform many of the tasks expected from privatisation. Property can also come under the control of concentrated funds, whose independence is questionable. Closer co-ordination and an exchange of information among the CEECs and NIS would be desirable in order to set-up a strictly controlled and transparent procedure -- even if this were to slow down the privatisation process.

7. Addendum on privatisation

Agricultural privatisation

The legal framework for the privatisation of state and collective farms has begun to be established in most countries.

-- In Albania, land distribution to private owners is heading to the finish. At the beginning of 1993, approximately 60 per cent of agricultural land was in private hands.

-- In Bulgaria, 25 per cent of agricultural land was in private hands by January 1993 and the government expected in September 1993 that the distribution of the property of the former cooperative farms will be completed by the beginning of 1994. The sale of land to foreign investors is still forbidden by law.

-- In the Czech and Slovak Republics, the introduction of private ownership into agriculture has made slow progress. By October 1992, only 54 enterprises in the agro-food sector had been completely privatised in the Czech Republic and almost none in the Slovak Republic. In August 1993, however, the Czech Ministry of Agriculture selected a total of 35 food-producers and processing enterprises, and 21 primary producers, to be privatised in the second wave of the voucher privatisation. The Federal ownership laws of May 1991 and February 1992, which have been transformed into national legislation by the two Republics, restored rights to the 1948 owners. In September 1992, only 170,000 individuals of possibly 4 millions eligible had applied to have their land returned and 15,000 cases were being dealt with, while only 5,000 private farmers had actually started to work on their own land.

-- In Estonia, land reform legislation is based upon several laws. The Law on Private farms, passed in 1989, gave rural families already working the land the use of this land and surrounding buildings for an indefinite period of time. This law also provided for some previous owners or their descendants to regain possession of land. Other laws more clearly define land ownership rights and establish the method for privatisation of state and collective farm property. The final stage of the land privatisation process began in 1993, with

the closure of all state and collective farms. Some are to become limited companies, while many others will be divided into small private farms.

-- In Hungary, out of a total of 155 state enterprises in the agro-food industry which had been sold to private entrepreneurs by the beginning of 1993, 22 have foreign investors' controlling more than half of the initial capital. At the end of the first semester of 1993, it was estimated that about 35 per cent of the Hungarian food industry had been sold, mostly to foreign investors. According to an amendment to the Land Law, which had not been yet passed in July 1993, all land will be privately owned within two to three years. Foreigners will take possession of farmland in exceptional cases only. These cases are the inheritance of farmland, the expropriation of land (in which case the foreigner will be allowed to buy farmland in Hungary to the value of the expropriated land and exchange). Foreigners will need the permission of the Ministry of Finance for any purchase. For purchasing land (as building site), incorporated foreign capital enterprises will enjoy the same rights as Hungarian firms.

-- In Latvia, the Supreme Council had resolved many of the issues of land reform by the end of 1991, resulting in the establishment of over 50,000 private farms by the end of 1992. Even though foreign investors are only allowed to lease land, special permission can be given by the Council of Ministers on a case-by-case basis allowing outright ownership in the privatisation process.

-- In Lithuania, there were already an estimated 48,000 private farms in existence by the end of the first semester of 1992. A considerable part of this process has been carried out by restitution. Pursuant to the Law on the Privatisation of Agricultural Enterprises, more than 80 per cent were already privatised by the end of the second quarter of 1993.

-- In Poland, 80 per cent of agricultural land is already farmed privately. The ownership rights of state farms and the possibility of privatising them have been clarified by the Act on State-Owned Agricultural Property, which came into force on 1 January 1992. Rental or leasing -- by a foreign entity -- of agricultural real estate belonging to the State is generally impossible until 1 January 1995 except for special cases in which permission of the Ministry of Agriculture and Food Economy is granted. To take part in bidding or auctions, a foreigner needs a permit from the Minister of Internal Affairs. By September 1992, nearly 500 agricultural food processing enterprises had been privatised (this figure does not include over 450 state farms taken over by the State Treasury's Agricultural Agency).

-- In Romania, out of a total of 9,317,000 hectares of agricultural land, 7,850,000 (84.2 per cent) had been restored to the original owners by January 1993.

-- In Belarus, the privatisation programme, approved by the government in September 1993, did not determine the fate of state enterprises and collective farms. Under the current legislation, leasing is open to foreign investors who may wish to establish individual farms. However, *kolkhoz* and *sovkhoz* tend to make mainly marginal land available thus discriminating against individual farmers.

-- In Kazakhstan, the privatisation of agricultural and agro-industrial enterprises has been one of the first priorities of the government. Kazakhstan’s agricultural enterprises should be privatised by the end of 1995. They will be sold mainly to their employees and pensioners. In the case of agricultural enterprises with a monopoly position, up to 10 per cent of shares will be offered to foreign investors. Kazakhstan’s privatisation program does not envisage a private market in land.

-- In Russia, land reform is currently taking place through privatisation, including distribution of plots among the population. As of end-1992 there were 184,000 private farms having at their disposal 6 per cent of Russia’s total cultivated area. In the structure of enterprises privatised in 1992 and the first five months of 1993, agriculture enterprises comprised only 2 per cent. While the Foreign Investment Law of July 1992 as well as the current Land Code make it clear that foreigners cannot buy land, a Presidential Decree allows foreign investors to buy privatised lands.

-- Ukraine has stated its intention of privatising land but is proceeding cautiously: a proposal has been made to dismantle the Soviet *sovkhoz* system (land ownership by government) and convert it into both voluntary farmer’s cooperative and private farming system.

Industrial privatisation

Leaving aside the agricultural sector, the number of businesses to be privatised varies from one country to another.

Bulgaria intends to privatise 25 per cent of state enterprises with assets exceeding 10 million leva by end-1995.

In the former CSFR, 130,000 small businesses were supposed to be privatised and some 3,000 larger firms were concerned by the large-scale programme. About 30 per cent of all businesses were likely to remain in the public sector.

Hungary plans to privatise some 10 000 small firms and businesses and about 2,200 larger ones, halving the proportion of state-owned firms over the next three years.

In Lithuania, 60 to 70 per cent of state-owned enterprises (agricultural entities excluded) had been offered for sale before the beginning of 1993.

In Poland, 7,600 enterprises are concerned. The government's economic plan, published in February 1992, provided that by 1995 50 per cent of all businesses are to be transferred to private ownership.

In Romania, large-scale privatisation will affect 6,000 enterprises accounting for 53 per cent of current state-owned capital; the remaining 47 per cent will remain under state ownership.

In Belarus, the government approved in September 1993 a privatisation program for 1993 which has defined the primary sectors of privatisation: light industry, the food industry, the timber industry, construction and parts of the agro-food industry.

In Kazakhstan, plans for the privatisation of 50 per cent of all small and medium-sized enterprises are being put forward.

In Russia, the December 1991 Privatisation Law as amended in June 1992 intended to put in the hands of all Russian citizens 20-25 per cent of all state assets (mostly from the retail trade and service sectors) by the end of 1992. In particular, 75 per cent of all small state shops were due to have been privatised by the end of 1992.

In Ukraine, plans for the privatisation of 65 per cent of Ukrainian medium and large-sized state enterprises have been put forward.

Privatisation schedule

Small-scale privatisation is already under way in all countries, except in Ukraine and in Kazakhstan. As for large-scale privatisation, setting aside state-owned enterprises sold directly to foreign investors (for instance, Skoda-Volkswagen in the Slovak Republic), the situation is as follows:

Only Poland, Hungary, the Czech Republic, Russia, the Slovak Republic and, to some extent, Romania, have already launched their large-scale privatisation programmes (i.e. the transfer of the capital of big State-owned enterprises to private ownership). Hungary's privatisation guidelines, adopted by Parliament in October 1991, provide that by 1994 50 per cent of all Hungarian firms will be privately owned.

Albania oversees the privatisation of approximately 1,500 enterprises.

The Bulgarian government, at the end of 1992, submitted a programme for privatising 300 enterprises by the end of 1993. But, because of the slow process of privatisation, a bill to amend the Privatisation Law was submitted to the Parliament as of fall 1993.

In the Czech and Slovak Republics, the first wave of large-scale privatisation was officially complete on 31 January 1993. The shares in about 1,500 companies have been allocated. However, at the end of the first semester of 1993, the millions of shares allocated to individuals and investment funds under the voucher system had not yet been transferred. The shares, once distributed, should be effectively handled by the Prague Stock Exchange and an off-exchange market ('RM-system') in securities. As soon as large volumes of shares have been distributed, foreign investors will be allowed to acquire them freely.

Since the dissolution of Czechoslovakia the second wave of privatisation has been carried out separately by the individual republics. In the Czech Republic, the shares in some 770 companies were expected to be offered for sale to the public at the beginning of 1994. In the Slovak Republic, there has been an increased reliance on public tender and competitive methods and a decrease in the overall significance of the voucher privatisation scheme since independence.

In Estonia, the government started the privatisation of large enterprises in 1993.

In Lithuania, about 70 per cent of all state-owned enterprises were to be offered for sale before the end of 1992 according to the government's plan.

Romania plans to spread large-scale privatisation over a seven-year period. The process started in January 1992 with the offer for sale of 6 companies selected from a preliminary list of 111.

In Kazakhstan, the government had planned to start the privatisation of 50 per cent of all small and medium-sized enterprises before the beginning of 1993. Less than 5 per cent of the total number of enterprises to be privatised were actually privatised at the end of 1993.

In Russia, the government set the target of privatising more than 5,000 medium and large scale enterprises, or up to half the country's industrial potential, during 1993, as well as of completing small privatisation (the sale of 150,000 companies).

In Ukraine, the government expects to privatise 250 large companies and 80 per cent of shops and small enterprises by the end of 1993. It is also planned that 65 per cent of its 10,000 large and medium-sized enterprises will be in private hands within 5 years.

Present pace of privatisation

Privatisation efforts in the CEECs and in the NIS intensified during 1992 and 1993. However, in several countries the number of large firms privatised has increased only marginally. Romania and -- even more so -- Bulgaria, Albania and the NIS, except Russia, are lagging behind their Baltic,

Polish, Hungarian, Russian, Czech and Slovak neighbours. In most countries surveyed, the uncertainties hanging over privatisation programmes tend to put off foreign investors.

-- In Albania, privatisation of small businesses has progressed rapidly. More than 10,000 small units have been transferred to private owners In Tirana as well as in some districts, the privatisation of food, manufacture and trade enterprises was almost complete by the end of the first quarter of 1993. But most of the 1,500 or more medium and large-sized enterprises have remained in state hands up to now. In some critical areas, such as petroleum extraction, exploration and refining, as well as mining, telecommunications and energy, a special effort will be made to attract foreign investment.

-- In Bulgaria, the small privatisation of state and municipal property in the industry, trade, services and public catering as initiated in 1991. The value of property sold in 1991 amounted to almost 10 million Bulgarian rubles. On the other hand, Bulgaria has still to begin its program of large-scale privatisation. At the end of August 1993, of 300 units subject to privatisation this year, only one and a half had been privatised, mainly due to delay in drafting and adoption of legislation to implement the Privatisation Act.

-- In the former CSFR, the first round of large-scale privatisation using the coupon method started in May 1992. Of the 1400 enterprises earmarked for the first wave, 171 enterprises were completely sold at the beginning of October 1992.

-- In the Czech Republic, the total number of units privatised in the small-scale privatisation jumped between December 1991 and August 1992 from 14,000 to more than 21,000, and approximately 90 per cent were privatised in auctions. In addition, about 100,000 units were returned into private hands under the restitution scheme. About 54 per cent of the privatised units were shops, 21 per cent were workshops, 10 per cent restaurants and 16 per cent other businesses. The speed of small-scale privatisation is decreasing now, mainly because there remain only a few thousand units to be privatised. It was expected that the programme of small-scale privatisation will be completed by end-1993. As regards large-scale privatisation, out of 2,300 units privatised, some 800 (35 per cent) had been sold by the beginning of 1993 in exchange for voucher points, 200 (9 per cent) had been sold by public auction, 180 (8 per cent) by public tender, over 520 (23 per cent) by direct sale and some 600 (26 per cent) had been transferred to municipalities or banks.

-- In Estonia, the privatisation carried out to date has predominantly concerned small and medium-sized companies. By the beginning of March 1993, more than 40 per cent of all small and medium-sized companies had been privatised. As regards large-scale privatisation, about 700 units had been sold by the beginning of the second quarter of 1993.

-- In Hungary, about 10,000 retail outlets have so far been affected by the so-called pre-privatisation legislation passed three years ago. At the beginning of 1993, the privatisation of about 7,000 had been completed and the rest was under way. As regards large-scale privatisation, the process has been much slower: at the beginning of 1993, only 8.3 per cent of state assets had been transferred to private hands, far short of the Hungarian government's target of 40 per cent by 1994.

-- In Latvia, the program of small-scale privatisation began in October 1991 and many small shops and restaurants had been privatised by January 1993. The privatisation process of large-scale enterprises has not really yet started.

-- Lithuania is rapidly approaching completion of small privatisation. As regards larger enterprises, privatisation started early in 1991, when a program enabled employees to buy up to 10 per cent of their firms. In September 1991, vouchers were issued to citizens allowing them to purchase shares in 100 companies which were about to be privatised. Since then, it is estimated that 60 per cent of state enterprises have been privatised.

-- In Poland, at the end of October 1993, 27 per cent of the state companies had been subjected to procedures for transformation of ownership since October 1990 when privatisation started. Sales of small businesses are proceeding quite fast: at the end of June 1993, around 95 per cent of them were already in private hands. Some sales of larger enterprises have also proceeded quite fast: 1,261 firms were privatised through liquidation by June 1992. In fact, according to Poland's Central Planning Office, 80 per cent of the state enterprises whose privatization had been authorised by the Ministry of Ownership Transformation between July 1990 and June 1991 took the "liquidation" route. This method of privatisation was used often in 1991: 40 firms a month on average applied to take themselves over in this way; 932 state firms were privatized in this fashion during 1991. However, other methods of privatisation have lagged behind: by September 1992, no more than 25 large or medium-sized state-owned enterprises had been sold to foreign investors and only about 15 large enterprises had been privatised through public offerings. In October 1993, there were about 6,000 enterprises still in state ownership.

-- In Romania, according to the National Privatisation Agency, more than 5,000 small businesses, restaurants, shops and factories, had been sold to the public by September 1992. The country has embarked upon the first stage of large-scale privatisation.

-- In the Slovak Republic, nearly 10,000 formerly state-owned small shops and service businesses had been auctioned off between February 1991 and the end of September 1992. Small privatisation was expected

to be completed in 1993. 832 medium and large-scale enterprises had been privatised by the beginning of 1993 (503 were sold in exchange for voucher points).

-- In Kazakhstan, over the first semester 1993, 1,027 enterprises were privatised in the Republic -or 2 per cent of the total number. Among the privatised enterprises, those in the retail trade service prevailed with 30 per cent, public service 15 per cent, industry 10 per cent and construction 9 per cent.

-- In Russia, small privatisation is well underway, with over 60,000 shops already in private hands at the end of 1993, i.e. more than one third of all small enterprises to be sold (150,000 companies). As regards Russia's large privatisation program, because of confusion about the details very little privatisation was actually achieved during 1991, when only 127 state- or municipally-owned retail outlets and 47 other service establishments were privatised. By late summer 1993, 2,50O of the 6,000 large companies due for privatisation had already been sold. The share of the nonstate sector in the economy rose from 13 per cent at the beginning of 1993 to 44 per cent on 1st September according to official sources.

-- In Ukraine, the first privatisation auction took place in Lvov at the beginning of 1993, during which some 17 small shops were sold to local citizens. Other auctions were held in October and November 1993.

Chapter IV

FDI statistics

Foreign direct investment in the CEECs and NIS has expanded rapidly since 1989, particularly with respect to the number of projects. In value terms, the flows were less impressive.

To assess the trends and features of foreign direct investment in the CEECs, a number of indicators have been chosen: the development of foreign direct investment since 1989; the volume of foreign capital invested (in terms of value and flows); the distribution of FDI among different economic sectors; and its geographical origin and distribution.

It should be noted, however, that the quality of statistics in the region as a whole is still unsatisfactory (5). An important difference emerges between methods of registration. For instance, in Hungary, the Czech and Slovak Republics investments are registered when they get their official registration with the court after payment of the statutory capital; the inflow of cash is included in the balance of payments. In Poland the statistical data gives the amount of real capital, in kind and in money terms, which has been invested by foreign investors in the equity of the companies; the data do not include investment commitments signed by foreign investors in the contracts. Romania, on the contrary, registers investment projects prior to the setting up of the company, which leads to an important overestimation of the capital inflow compared to the balance of payments. An additional problem arises when the investment flows measure is based on the capital account in the balance of payments, since this is a category in net terms which does not include FDI in kind. For 1992 in Hungary, FDI cumulative figures were above US$ 4 billion. In order to get the total sum, it would be justifiable to add about US$ 0.30 billion to the capital account data as the foreign contribution in kind. Furthermore, reinvested profits and long-term investment credits from the foreign partner could be added.

1. The development of FDI projects

Table 13 shows steady development over the period 1989-1992. Looking at Eastern Europe (including the ex-USSR) as a whole, almost 26,000 FDI projects had been registered by the second quarter of 1991, over 36,000 by the last quarter of that year and over 60,000 by the beginning of 1993, i.e. almost a two-fold increase between 1992 and 1993.

(5) See footnote (3).

Table 13. Development of foreign direct investment projects ('000s) - cumulative, 1989-1993

	1.01.89	1.01.90	1.01.91	1.01.92	1.06.92	1.10.92	1.01.93	1.07.93
Albania	n.a	n.a	n.a	0.05	n.a	O.O7	n.a	n.a
Bulgaria	n.a	0.03	0.14	n.a	n.a	n.a	0.22	n.a
ex-CSFR	0.02	0.06	1.6	6.2	9.1	10.7	n.a	--
SR	n.a	n.a	n.a	n.a	2.2 [1]	2.4	2.8	4.0
CR	n.a	n.a	n.a	n.a	6.9 [1]	8.3	n.a	11.4
Estonia	n.a	n.a	O.1	1.1	1.6	1.8	2.6	n.a
Hungary	0.27	1.0	5.7	9.1	13.O	13.1	13.2	15.3
Latvia	n.a	n.a	0.05	0.3	O.45	0.53	1.3	n.a
Lithuania	n.a	n.a	0.02	0.2	1.1	1.2	1.2	n.a
Poland	0.05	0.09	2.7	5.6	7.6	n.a	9.0	17.5
Romania	n.a	0.005	1.6	10.3	n.a	16.3	20.7	26.0
Ex-USSR	0.2	1.3	3.0	4.9	7.2 [2]	9.1	13.2	n.a
CIS	n.a	n.a	n.a	4.0	n.a	5.1	7.0	n.a
Among CIS:								
Belarus	n.a	n.a	0.04	0.2	0.4	n.a	0.8	n.a
Kazakhstan	n.a	n.a	0.01	0.08	n.a	n.a	0.5	n.a
Russia	n.a	n.a	1.5	2.6	2.7	2.8	3.2	n.a
Ukraine	O.07	0.07	0.15	O.4 [3]	0.7 [4]	0.75	1.2	n.a

1/ As at 30 June 1992
2/ As at July 1992
3/ As at February 1992
4/ As at August 1992

Source: OECD/DAF data bank

The most spectacular growth in the number of projects registered in CEECs by the beginning of 1993 was in Romania, from fewer than 1,000 projects in January 1991 to over 20,000 by the beginning of 1993. Among the Baltic states, the most spectacular growth in 1992 occurred in Lithuania with an increase of more than 1,000 projects, followed by Estonia (700 new foreign investment companies had been set-up by October 1992) and Latvia (500 new registered projects). Among the NIS, Ukraine (350 new FDI registered projects) and Russia (200 foreign investment companies newly registered) ranked first and second. The last figure is interesting when compared with the period 1 January 1991-1 January 1992, during which the number of registered projects had increased in Russia by 1,100.

2. FDI: Operational projects

A distinction has to be made between investment projects that are already operational and projects registered with national authorities but as yet unrealised, since there is bound to be an interval before commitment to invest brings in actual capital flows.

About half of the FDI projects registered seem to be operational in the CEECs and NIS (Table 14). In Russia, as of 1 January 1992, out of 2,600 firms with foreign participation formally registered, 1,168 were operational (about 48 per cent); at the end of the first semester of 1992 the number of operational firms with foreign capital had increased to 1,352, with 2,648 companies with foreign participation formally registered (i.e. 51 per cent of the officially registered companies in the country were actually operational).

Table 14. Registered and operational investment projects, cumulative

	Poland	ex-CSFR	Hungary	Bulgaria	Albania	Russia	Ukraine	Belarus
	(12.92)	(01.93)	(04.90)	(O1.91)	(01.93)	(06.92)	(01.93)	(01.93)
No. of projects registered	10 131	11 000	1 600	140	70	2 648	1 500	800
No. of operational projects	5 740	4 400	1 300	104	55	1 352	811	240
Operational projects as % of no. of projects registered	52	40	80	75	70	51	53	30

Source: OECD/DAF Data Bank.

3. Foreign direct investment flows

Flows of foreign capital have increased in conjunction with the growth of foreign investment projects, but at a slower pace. FDI cumulative flows in the fourteen economies were estimated at over US$ 11 billion at the beginning of 1993. Hungary had attracted the biggest share, accounting for about 35 per cent (table 15).

Table 15. Foreign investment flows (cumulative, 1990-1993)

Country	Date	FDI value in mn. US$	Percentage of estimated GDP
Albania	11.92	37	0.3
Bulgaria	01.93	57	0.2
CR	01.91	n.a	n.a
	01.92	596	n.a
	O1.93	1506	6.7
	07.93	1898	7.0
Estonia	01.90	45	n.a
	01.91	48	n.a
	10.92	180	1.8 [2]
Hungary	01.90	550	n.a
	01.91	1460	3.3
	01.92	3000	10.0
	01.93	4323	11.4
	03.93	4623	15.4
Latvia	01.90	9	n.a
	01.91	27	n.a
	10.92	121	n.a
Lithuania	01.90	14	n.a
	01.91	15	n.a
	10.92	120	n.a
Poland	01.90	100	n.a
	01.91	352	n.a
	01.92	680	0.6
	01.93	1408	1.3
	01.94	3000	n.a
Romania	01.91	112 (committed)	0.2
	01.92	269 (")	0.6
	01.93	538 (")	1.3
	04.93	575 (")	1.3
	07.93	700 (")	n.a

SR	04.92	123	1.4
	10.92	203 (committed)	2.2
	01.93	231 (committed)	2.6
	07.93	320 (committed)	n.a
CEEC-5*	01.92	5,300	2.1
CEEC-7**	01.93	7,192	2.9
Ex-USSR	01.90	837	n.a
	01.91	1328	n.a
	10.92	5500	n.a
CIS	10.92	5150	n.a
Belarus	01.90	53	n.a
	01.91	101	n.a
Kazakhstan	01.90	3	n.a
	01.91	9	n.a
	01.93	50	n.a
Russia	01.90	617	n.a
	01.91	959	n.a
	10.92	800	0.9 [1]
Ukraine	01.90	24	n.a
	01.91	52	n.a
	10.92	670	0.3 [1]
NIS-5***	01.90	709	n.a
	01.91	1100	n.a
	10.92	2391	n.a
NIS-7****	01.90	765	n.a
	01.91	1210	n.a

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* Poland, the Czech and Slovak Republics as the CSFR, Hungary, Romania and Bulgaria.

** Poland, the Czech and Slovak Republics, Hungary, Romania, Bulgaria and Albania.

*** Russia, Ukraine and the three Baltic countries (as reported for USSR in 1990)

**** Russia, Belarus, Ukraine, Kazakhstan and the three Baltic countries (as reported for USSR in 1990)

[1] As percentage of the gross social product (which represents the total value of material production and excludes services).

[2] As percentage of GNP.

Note: Rounded percentages and GDP estimates at current US dollar prices.

Table 16. Foreign Direct Investment in Poland, Hungary, former CSFR, Romania and Bulgaria (US$ million)

	1989	1990	1991	1992	Total
Poland	100	252	348	709	1,409
ex-CSFR	256	180	640	824	1,900
Hungary	187	311	1,460	1,465	3,423
Romania	n.a	112.4	156.3	269.1	537.8
Bulgaria	n.a	n.a	n.a	16	57.3

Source: Central Bank figures.

4. FDI, capitalisation, joint ventures and employment

There has been an increasing role of small and medium-size enterprises in the economies in transition (see tables in Annex 1). The relatively small size of companies with foreign participation is confirmed by the low number of workers employed in each foreign investment company.

Capitalisation

In the former CSFR, almost half of the operational foreign capital had been invested in companies with an authorised capital of US$ 18,000 or less by March 1991 (table, Annex 1). In the Slovak Republic at the beginning of 1993, the average foreign capital per foreign participation enterprise was US$ 82,000. Over 98 per cent of the 2,900 foreign investment enterprises had foreign capitalisation which did not exceed US$ 350,000.

In Hungary, in June 1990, almost half of foreign investors' commitments were made in companies with authorised capital of US$ 160 000 or less (ten times the CSFR figure). Two years later, in June 1992, 64 per cent of companies' projects with foreign participation had a founding capital of around US$ 14,000. At the beginning of 1993, the vast majority of foreign investment companies continued to have a very low founding capital: only 4 per cent of the projects represented investment of over US$1 million, even though this group provided the largest share of invested capital (tables and, Annex 1).

In Poland, the average foreign equity capital per company was US$ 94 000 in 1990, US$ 237 000 in 1991 and US$ 245 000 in 1992. There were about 150 projects in which the foreign equity capital was bigger than US$ 1mn per company by the very end of 1993 (see tables in Annex).

In Romania, very small commitments predominated at the end of the first half of 1992: over 95 per cent of the total number of projects had a foreign part of capitalisation of less than US$ 50,000 and almost 98 per cent of less than US$ 100,000. Only 49 enterprises (0.4 per cent) had a foreign capital contribution exceeding US$ 1 million, while disposing of almost 62 per cent of the total foreign capital in the country. The average capital of companies with foreign participation was about US$ 1,500; the number of big investors was relatively small (among them, nine Western firms had invested US$ 121 million or 31 per cent of the overall foreign investment) (see tables in Annex).

Fully and partly owned foreign investment companies

In Central and East European countries, foreign shareholders have tended, since the beginning of the transition process, to set-up joint ventures with local partners. In the former CSFR, Hungary and Poland most foreign shareholders acquired less than 50 per cent of the capital in most of the firms in which they invested in 1990 and 1991. The year 1992 confirmed this trend: in each of the fourteen surveyed countries most of the investments were joint ventures. Six examples:

-- In Bulgaria, at the end of March 1993, the information from tax authorities showed that most foreign participation enterprises had begun their operations by setting up a Limited Liability Company, where the minimal required capital is about US$ 1,900. The wish to exercise control over business activity was expressed by the investors through ownership of over 50 per cent of the assets or of the controlling package of the shares of a joint stock company.

-- In the former CSFR, by October 1992, out of 10,729 registered projects, 6,544 were joint ventures and 4,085 enterprises had 100 per cent foreign ownership (38 per cent of the total number).

-- In Hungary, out of about 13,000 registered projects in July 1992, only 2,000 of them were fully foreign-owned business corporations (16 per cent of the total number). Out of 13,218 registered foreign capital enterprises at the end of 1992, only 2,977 were fully owned by foreigners (about 22 per cent of the total).

-- In Poland, out of 5,740 companies with foreign capital operating at the very beginning of 1993, 18.0 per cent were owned fully by foreigners.

-- In the Slovak Republic, by June 1992, out of 2,205 organisations with foreign participation registered in the Republic, some 560 companies had 100 per cent foreign ownership (14 per cent of the total number of companies with foreign capital). At the beginning of 1993, only

28 per cent of the total number of registered companies with foreign participation were wholly foreign-owned.

-- In Kazakhstan, out of the 500 enterprises with foreign participation registered projects at the beginning of 1993, half were fully owned by foreign partners.

Table 17. Proportion of foreign-owned capital in firms: ex-CSFR, Hungary and Poland

Foreign-owned share of total statutory capital	**Poland (31.12.1991)**	**ex-CSFR (1.3.1991)**	**Hungary (1.6.1990)**	**Hungary (31.12.90)**
Over 90%	18.5%	20%	5%	8%
Over 50%	50%	54%	23%	41.5%
Under 50%	50%	46%	77%	58.5%
40 - 50%	13%	n.a	n.a	n.a
30% or less	27%	6%	13%	n.a

Note: Data based on samples of operational foreign investment projects for Hungary and the former CSFR; on the cumulative number of registered projects in Poland.

Source: East-West Joint Ventures News 6 (October 1990), p. 9; Ibid. 7, p. 13; Ibid. 8 (July 1991), p. 14; Foreign Trade Research Institute, Warsaw.

Foreign Direct Investment in terms of employment

In terms of employment, enterprises with foreign capital accounted last year for 4.5 per cent in Hungary and for 2.3 per cent in Poland. Foreign enterprises at the end of 1992 employed 230,000 Polish workers. Most of these companies (42.5 per cent in July 1992) employed between 10-100 workers and 34.3 per cent employed 5 or less.

Foreign companies registered in Estonia employed 0.6 per cent of the total number of wage and salary workers, and in Russia and Ukraine about 0.1-0.2 per cent.

5. Sectoral distribution of foreign investment

Foreign investment in economies in transition is spread over a variety of sectors (see tables by country in Annex 1). A distinction has, however, to be made between the number of investment projects in each of the main sectors of the national economy of the host country and the value of FDI in each of these sectors.

Taking into account the value of FDI, manufacturing and transport industry attract most foreign capital, in at least in four of the seven CEEC countries, although the service sector’s share is rising. Thus, for instance, the transport industry in the former CSFR had received 29.4 per cent of the foreign investment capital by the beginning of 1993, followed by construction and trade (12.7 per cent), manufacturing industry (11.7 per cent) and banking (10.5 per cent).

On the basis of the numbers of projects, most of the foreign companies that have been registered since 1991 are in the commercial and service sectors. For instance, in Romania, it appears that, by the end of June 1991, 95 per cent of firms with foreign capital, accounting for 72 per cent of total foreign commitments, had been engaged in trade. Over 49 per cent of them also operated in transport and tourism, although the shares of those in foreign capital inflow are lower (20 per cent and 29 per cent, respectively). In Bulgaria, at the end of March 1993, the vast majority of foreign enterprises registered (85 per cent) were also established in the commercial and service sectors, including the tourist sectors. Still insignificant was investment in the heavy industry, the agro-food industry and the high-tech sectors (only 5 per cent of total FDI). In Belarus, over 64 per cent of enterprises with foreign capital worked in industrial production at the beginning of 1993, 6 per cent in construction and 4 per cent in agriculture.

6. Home countries

Investment in the CEECs and NIS comes from a multitude of countries -- from over 117 different countries in the case of Romania at the beginning of 1993, to over 50 in Hungary and the Slovak Republic, 60 in Belorussia and 90 in Poland at the beginning of 1994.

Table 18. FDI in Central and Eastern Europe: breakdown according to country of origin, first quarter of 1991

Geographical origin	Proportion of projects supported in each country					Proportion of foreign capital invested in each country				
	Poland	CSFR	Hungary	Bul.	Rou.	Poland	CSFR	Hung.	Bul.	Rou.
Western Europe	82%	85.5%	79.3%	n.a	57%	80.6%	54.6%	62.5%	n.a	68%
EEC	59.3%	39.5%	41.0%	60%	40%	53.9%	40.5%	30.3%	62%	53%
EFTA	21.9%	44.7%	37.2%	n.a	7%	25.9%	14.1%	31.8%	n.a	7%
Economies in transition	1.9%	5.3%	1.6%	n.a	3%	1.0%	13.0%	1.3%	n.a	1%
USA	7.6%	1.8%	6.5%	n.a	6%	7.9%	0.0%	10.8%	8%	9%
Canada	1.7%	n.a	1.7%	n.a	n.a	1.0%	n.a	0.2%	n.a	n.a
Japan	0.2%	n.a	n.a	n.a	n.a	0.3%	n.a	n.a	n.a	n.a
LDCs	1.5%	0.9%	1.5%	n.a	25%	1.5%	O.1%	6.8%	n.a	14%

Notes: Figures for Poland, Hungary and Bulgaria are as of 1st January 1991; those for the CSFR as of 1st April 1991; and those for Romania as of 1st July 1991.

The percentages for Poland refer to FDI projects registered as of 1st January 1991. Those for the CSFR cover very nearly all operational FDI projects as of 1 April 1991. Those for Hungary are based on a sample of 1,006 enterprises with operational FDI, those for which sufficient data were available for statistical purposes. Figures for Bulgaria cover only the 64 joint ventures operational in January 1991, and figures for Romania are based on 4 196 enterprises for which FDI had been committed by 1 July 1991.

Sources: East-West Joint Ventures News 6, pp. 16, 19, 20; Ibid. 8, pp. 15-17; Ibid. 9, p. 10; WIIW-Mitgliederinformation 1991/10, pp. 14-15; OECD/DAF data bank.

Table 19.
Proportion of foreign capital invested in value terms*

Origin	**Poland**	**CSFR**	**Slovak Republic**	**Hungary**	**Romania**	**Bulgaria**	**Albania**	**Ukraine**
Western Europe	80%	75%	71%	63%	69%	n.a	100%	41%
EEC	58%	n.a	38%	30%	64%	n.a	70%	26%
EFTA	22%	n.a	34%	32%	4%	n.a	30%	12%
Economies in transition	2%	2%	1.6%	2%	3%	n.a	O%	32%
USA	14%	n.a	19.2%	11%	12%	n.a	O%	14%
Japan	O.5%	O.5%	O.0%	O.5	0.5	n.a	O%	O.5%
LDCs	1%	1%	5.0%	7%	10%	n.a	O%	7.O%

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* Except in the case of Albania and Ukraine where data cover FDI in terms of number of FDI projects.

Note: Data for Hungary cover new FDI established during the first half of 1992; data for Poland cover cumulated foreign capital at the beginning of 1992; data for the Slovak Republic cover cumulated foreign capital flows at the beginning of 1993; data for Romania and former CSFR cover cumulated foreign capital flows by the end of 1992. Data for Albania are calculated on the basis of the cumulative number of FDI projects registered by 1 April 1992; data for Ukraine cover the cumulated number of FDI projects at the end of the second quarter 1992.

Source: UNECE, East-West Investment and Joint Ventures News 14 (December 1992); OECD/DAF data bank.

The developed market economies of western Europe, taken together, accounted for over 80 per cent of the total value of foreign capital in Poland at the beginning of 1992, for about 63 per cent of the new foreign investment companies established in Hungary at the beginning of the second half of 1992, for about 72 per cent of the total value of FDI in the Czech and Slovak Republics at the beginning of the second semester 1992, for 69 per cent of the total value of FDI and 39 per cent of the total number of foreign investment companies in Romania at the beginning of 1993 (54 per cent of this total number came from the OECD members), for over 65 per cent of the total value of FDI in Bulgaria at the beginning of 1991. By the beginning of 1993, most foreign investment in the Slovak Republic came also from western Europe: the capital share of western Europe amounted to 71 per cent.

Foreign capital originating from western Europe seems to be lower in the NIS. For instance it was involved in only 41 per cent of the total number of registered companies with foreign participation in Ukraine at the end of the second quarter of 1992.

The share of the EEC countries is highest in Romania (64 per cent of total foreign capital at the beginning of 1993) and Poland (58 per cent of total foreign capital at the beginning of 1992). In the Slovak Republic, while all OECD countries had invested capital except Ireland and Portugal, foreign investors from the EEC committed (at the beginning of the second half of 1992), 37 per cent of foreign investment companies statutory capital and, (at the beginning of 1993), 38 per cent of the total amount of foreign capital. In Hungary, they accounted for about 30 per cent of the cumulative value of registered FDI at the beginning of the second half of 1992, for over one third of the cumulative value of operational foreign investment companies, and 40 per cent of the total number of operational foreign investment companies at the end of the first quarter of 1991. Again, the share of the EEC countries is lower in the NIS -- about 26 per cent of the total number of registered foreign investment companies in Ukraine.

Among EEC countries, Germany was among the leading investors in terms of numbers of projects registered in the six countries of Central and Eastern Europe (Poland, former CSFR, Hungary, Romania, Bulgaria and Albania) at the end of 1991, followed by Austria with about 15 per cent of all companies with foreign participation. In 1992, Germany was still among the leading investors in Central and Eastern European countries (Poland, the Czech and Slovak Republics, Hungary, Romania, Bulgaria, Albania and the Baltic States) and in at least some NIS (Ukraine and Russia) in terms of number of registered projects, as well as in value terms (see following tables).

By contrast, at the beginning of 1993, the highest share of EFTA investment (about one third in terms of value and number of enterprises in both cases), was in Hungary, followed at the beginning of 1992, by Poland (22 per cent of the total value of foreign capital against 26 per cent one year before), Ukraine (12 per cent of the cumulative number of FDI projects at the end of the second quarter of 1992) and Romania (4 per cent of total foreign capital and 5 per cent of total companies with foreign participation at the beginning of 1993).

Companies from the OECD countries had invested an important share of foreign capital in all countries surveyed. At the beginning of 1993, Romania was the country which had the highest weight of investors from the OECD countries (86 per cent of foreign capital value and more than a half of the commercial companies with foreign participation). In the Slovak Republic, by the end of June 1992, Ireland, Portugal, Island, Japan and New Zealand were the only OECD countries which had not invested. In Bulgaria, at the end of March 1993, seven OECD countries had already invested: the U.S., France, Germany, Austria, Italy, the Netherlands and Finland.

Among OECD countries, companies from the United States have been among the leading investors in the region throughout 1992. They have invested an important share of foreign capital in almost all the countries surveyed, accounting for almost 13-14 per cent of the total foreign capital value at the beginning of 1992, 39.5 per cent in the former CSFR, 21 per cent of the total FDI value in the Slovak Republic at the beginning of 1993, for about 19 per cent of the total in Hungary at the beginning of second semester 1992, for 47 per cent by the end of 1993 in Poland, for 13 per cent of the invested capital in Romania and for 14 per cent of the total number of registered foreign companies in Ukraine at the end of the second quarter of 1992, for 11 per cent of the total number of registered FDI projects in Kazakhstan at the beginning of 1993 and for 14.5 per cent of the total number of registered foreign investment companies in Russia at the end of the first quarter of 1992. In Russia, companies from the USA amounted for both the biggest number of foreign investment companies and the largest foreign capital invested.

Southern CEECs (Albania, Bulgaria and Romania) and the NIS have attracted more foreign investment companies from the Middle East and Asia than have their northern neighbours (Poland, the Czech and Slovak Republics, Hungary). In Romania, for instance, 30 per cent and 14 per cent of all companies with foreign participation originated from the Middle East and Asia, respectively. In Bulgaria, the analysis of available data at the end of March 1993 shows that the inflow of FDI comes mainly from the closest situated countries. The biggest number of FDI companies (out of a total of a sample of 225 foreign capital enterprises registered by 18 March 1993) came from neighbouring Greece, followed by Germany, Austria, Italy, Russia, Turkey and Syria. In the Republic of Kazakhstan, out of the 500 foreign participation enterprises registered at the beginning of 1993, almost 16 per cent were created with the participation of Chinese firms and 12 per cent with Turkish capital.

However, in Albania, Bulgaria and Romania, as well as in Central European countries, Japanese foreign investors are practically not represented whether in terms of project numbers or in terms of foreign capital value, except in Hungary and Poland. Cumulative FDI from Japan only amounted to US$ 65 million in the whole region by the beginning of 1993. Out of this total amount, US$ 63 million went to Hungary. At the very end of 1993, Japan had invested US$ 7.6mn in Poland.

Table 20. Foreign investment in Poland, the former CSFR and Hungary in terms of number of projects and capital value (first quarter of 1991) Total FDI, sample of investing countries, percentages and rank

Investing countries	NUMBER OF PROJECTS									CAPITAL VALUE INVESTED					
	POLAND			CSFR			HUNGARY			POLAND		CSFR		HUNGARY	
	No.	%	rank	No.	%	rank	No.	%	rank	%	rank	%	rank	%	rank
Germany	961	35	1st	56	25	2nd	252	25	2nd	29	1st	9.7	2nd	9.3	3rd
Austria	200	7	4th	80	35	1st	257	25	1st	6	5th	9.O	4th	24	1st
France	130	5	7th	07	3	5th	09	1	8th	4	9th	9.9	1st	1	5th
Switz.	90	3	9th	16	7	3rd	61	6	4th	4	8th	4.8	7th	4	4th
USA	214	8	3rd	04	2	6th	65	6	3rd	8	3rd	n.a	21st	11	2nd

Note: Figures for Poland are as at 1.1.91 and refer to registered projects; figures for the CSFR, as at 1.4.91, refer to operational projects; figures for Hungary, as at 1.1.91, refer to a sample of 1 006 operational projects.

Table 21. National origin of foreign investment in Hungary, Romania and Ukraine in terms of capital value (cumulated, January 1992, in million US$)

Romania			Hungary			Ukraine*		
Investing country	Rank	Amount	Investing country	Rank	Amount	Investing country	Rank	Amount
France	1	n.a	USA	1	1000	Italy	1	n.a
USA	2	n.a	Germany	2	500	USA	2	n.a
Germany	3	n.a	Austria	3	400	Germany	3	n.a
Italy	4	n.a	France	4	300	Sweden	4	n.a
U.K.	5	n.a	Japan	5	250	Spain	5	n.a

Note: * As at end of March 1992
Top 5 investing countries

Source: OECD/DAF Data bank

7. Geographical distribution of FDI

For most of the CEECs and NIS, the largest number of FDI projects goes to the capital city. For example:

-- In Poland, out of the 4,920 firms with foreign capital registered as of 3 October 1991, the majority were established in the Warsaw area, followed by Gdansk, Poznan and Katowice. At the end of June 1992, out of the 8,988 companies with foreign participation registered, 34 per cent were located in the Warsaw province, 8 per cent in Gdansk, 7 per cent in Poznan, 6.3 per cent in Katowice, 5.8 per cent in Szczecin, 4.5 per cent in Wroclaw, 4.2 per cent in Krakow, 3.7 per cent in Lódz.

-- In Romania, out of 20,681 registered foreign capital companies at the very end of 1992, about 60 per cent were located in Bucharest. Half of total foreign capital went to the capital of Romania.

-- In the Slovak Republic, most projects have been concentrated in Bratislava (77 per cent by end of June 1992) and in western Slovakia. At the beginning of 1993, 66.5 per cent of the total foreign investment were still concentrated in the Slovak capital. Next come the regions of Nitra (7.7 per cent), Poprad (5.7 per cent), Roznava (5.1 per cent) and Martin (3.3 per cent). Taken together, these five regions accounted for over 88 per cent of the total foreign capital invested in January 1993.

-- In Russia, Moscow accounted in June 1992 for 48.3 per cent of the firms with foreign capital registered in the Federation of Russia.

8. Assessment

Foreign direct investment in the CEECs and NIS has expanded rapidly since 1989 with respect to the number of projects, while, in value terms, the flows were less impressive.

At the end of 1989, less than 2,500 projects were registered in the fourteen countries. By the end of 1991, there were nearly 45,000 registered projects and by January 1993, the number had grown to over 63,000. Looking at the entire region (including the ex-USSR) as a whole, almost 26,000 FDI projects had been registered by the second quarter of 1991, over 36,000 by the last quarter of that year and over 64,000 by the beginning of 1993.

Throughout the past two years, the most spectacular growth in the number of projects occurred in Romania, from fewer than 1,000 projects in January 1991 to over 20 000 by the beginning of 1993. This places Romania ahead of Hungary, where less than 4,000 projects of enterprises with foreign participation had been set-up throughout the year 1992. In Poland, 3 533 companies with foreign participation started their operations during 1992, while some 7,000 new companies have been registered since then.

Among the three Baltic states, the most impressive expansion occurred in Lithuania, where the number of registered projects increased by approximately 1,000 from 1 January 1992 to 1 October 1992, followed by Estonia and Latvia.

Among the NIS, the number of registered projects increased in Russia and Ukraine respectively only by about 200 and 350, to 2,900 and 800 at the end of 1992. At the beginning of 1993, Russia accounted for over one third of all projects in the former Soviet Republics.

An estimated average of 50 per cent of FDI projects are operational in Albania, Bulgaria, the Czech and Slovak Republics, Hungary, Poland, Belarus, Russia and Ukraine. The typical foreign investment company in those countries is still rather small. While large investments in value terms have been usually made in manufacturing, more and more companies with foreign capital are set-up in the services and trade sector. In terms of jobs, foreign investment companies accounted last year for about 4.5 per cent of total employment in Hungary, for 1.3 per cent in Poland and for less than half per cent in Russia, Ukraine and the three Baltic states.

A mushrooming number of companies with foreign participation is confirmed by the increasing number of joint ventures in the region at the beginning of 1993 as compared to the situation prevailing in 1990 and 1991. For instance, an average of 80 per cent of the total number of registered companies with foreign participation were joint ventures in Poland, the former CSFR and Hungary at the beginning of 1993.

Flows of foreign capital have increased in conjunction with the growth of foreign investment projects, but at a slower pace. FDI cumulated flows in the fourteen economies are estimated at over US$ 11 billion at the beginning of 1993. Hungary has attracted the biggest share, accounting for about 35 per cent, followed by the Czech Republic for about 17 per cent and Poland, for about 12 per cent.

In seven Central and Eastern European countries (Poland, the Czech and Slovak Republics, Hungary, Romania, Bulgaria and Albania) accumulated FDI flows reached about US$ 9 billion at the beginning of 1993. Hungary attracted about half of it, Poland 15.6 per cent, the Czech Republic about 9 per cent, Romania 6 per cent, Bulgaria and the Slovak Republic less than 5 per cent.

Investors from the developed market economies of Western Europe have played a dominant role in the growth of both foreign investment projects and FDI stocks. Germany was among the top three investor countries in most of the region in 1991 and 1992. Companies from the United States also ranked high among foreign investors, especially in Russia --accounting for more than 60 per cent of total foreign capital invested there, while Japan has been almost absent from the whole area up to now.

Investors from EEC countries have been predominant in Romania and Poland (more than half of total foreign capital) but less present in the NIS. In Hungary, foreign capital originating in EEC and EFTA countries accounted for about two-thirds of the total.

Despite the growth of both foreign investment projects and foreign capital inflows, the FDI performance remains disappointing if measured against the needs and expectations of the countries in the region. The figure for total foreign capital invested in each eastern European country was quite low by international standards at the beginning of 1993, on average 2.9 per cent of the seven countries' total GDP (Poland, the Czech and Slovak Republics, Hungary, Romania, Bulgaria, Albania). In Russia and Ukraine the figure represented O.9 and 0.3 per cent of the gross social product at current US dollar prices.

Annex 1

Comparative Tables on FDI in CEECs and NIS

1. Statistical Data on FDI in Albania

Table 1. Sectorial distribution of FDI in Albania: total number of registered projects, November 1992

Sectors	**Number of registered projects**
Industry, mining and energy resources	19
Agriculture and the food industry	15
Construction	10
Tourism	3
Others	23
Total	70

Source: Business Eastern Europe (14 December 1992), p. 603.

2. Statistical Data on FDI in the Baltic States

Table 2. National origin of foreign investment projects in the Baltic States in terms of projects (cumulated, in million US$, sample of countries, 1989-1992)

	Latvia (January 1991 through June 1992)		Lithuania (January 1989 through June 1992)		Estonia (January 1993)	
Investing countries	**Rank**	**As a percentage of total FDI projects**	**Rank**	**As a percentage of total FDI projects**	**Rank**	**As a percentage of total FDI**
Russia	1	32.4	1	32.1	2*	22.2
Germany	2	12.0	3	11.8	5	2.8
USA	3	9.01	4	5.7	4	3.0
Poland	4	7.15	2	19.1	n.a	n.a
Sweden	5	6.48	n.a	n.a	3	11.0
Finland	n.a	n.a	n.a	n.a	1	51.0
Ukraine	6	2.69	5	3.9	n.a	n.a
Others	7	30.2	6	27.4	6	10.0

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* Figure for the CIS

Source: The World Bank, *Foreign Direct Investment in the States of the Former USSR*, Studies of Economies in Transformation, 1992; Financial Times, *East European Business Law* (March 1993).

3. Statistical data on FDI in Bulgaria

Table 3. Pattern of FDI in Bulgaria: percentage of operational projects in various sectors at 1 January 1991

	Joint ventures (64 JV = 100%)	**100% foreign-owned enterprises (40 enterprises = 100%)**
Production activities	30%	28%
Commerce	26%	36%
Services and tourism	22%	12%
R&D & engineering consultancy	17%	n.a
Other	5%	24%

Source: WIIW-*Mitgliederinformation* 1991/10, p. 16.

4. *Statistical Data on FDI in the former CSFR*

Table 4. ex-CSFR Operational FDI and average authorised capital of wholly or partly foreign-owned firms (March 1991)

Average capitalisation	**228 operational investments = 100%**
US$ 18 000 or less	49.0%
US$ 100 000 or less	70.0%
US$ 3.6 million or more	3.1%
US$ 10.0 million or more	0.8%

Source: *East-West Joint Ventures* 8 (1991), p. 14.

Table 5. ex-CSFR Sectorial distribution of FDI: cumulative in value terms, 1989-1992

	1991	**1989-1992**
Total amount	607 mil. US$	2180 mil. US$
Transport	70.3%	29.4%
Construction & trade	O.O%	12.7%
Food industry	0.0%	11.7%
Banking services	9.4%	10.5%
Retail and services	3.9%	6.0%
Others	16.4%	29.6%

Source: National Statistics

Table 6. ex-CSFR National origin of foreign investment projects in terms of capital value in 1989-1993 (cumulative, in percentage of total foreign capital invested)

	1989-92		Cumulative total to 1 April 1993	
	Rank	**Percentage**	**Rank**	**Percentage**
GERMANY	1	39.9%	1	32.2
USA	2	21,1%	2	29.5
FRANCE	3	14.6%	3	13.8
AUSTRIA	4	6.6%	6	4.4
BELGIUM	5	5.8%	4	7.1
Others	6	12.0%	7	13.0

Source: National statistics and Czech National Bank.

5. Statistical Data on FDI in the Czech Republic

Table 7. Foreign Direct Investment in the Czech Republic (Mil. US$), 1991-93

1991	1992	1.06.1993	1991-1.06.1993
596	910	391,5	1,898

Source: *Czech National Bank*

6. Statistical Data on FDI in Hungary

Table 8. Hungary: Foreign participation companies

Year	**Number of Ventures**	**FDI* (in $ million)**
Up to 1989	1879 units	550
1990	3814 units	900
1991	5642 units	1700
1992	4101 units	1650
1993 (first half)	2093 units	651
Total	17529 units	5351

* These figures are drawn from balance of payments data. They measure gross inflows and therefore do not take into account any disinvestment.

Source: *Hungarian Central Statistical Office*

Table 9. Hungary: Sectoral break-down of FDI
(in per cent)

Year	**Manufacturing**	**Trade**	**Services**	**Other**	**Total**
1990	56.6	19.2	13.1	11.1	100
1991	63.8	13.8	12.2	10.2	100
1992	62.4	10.8	16.4	10.4	100
Average 1990-92	61.8	13.8	13.8	10.6	100

Source: *Hungarian Central Statistical Office*

Table 10. Hungary: Foreign participation companies and FDI by Country of Origin in 1992

Country	Number of Ventures	FDI (million HUF)
Austria	580	9 255
Belgium	46	9 435*
Canada	57	556
China	271	429
CIS	195	1 556
France	81	2 017
Germany	937	4 882
Great Britain	112	814
Italy	239	793
Japan	11	195
Netherlands	100	2 074
Switzerland	156	2 837
United States	269	1 190

* The figures include US investment made from Belgium.

Source: *Hungarian Central Statistical Office*

Table 11. Hungary: Registered FDI projects and average authorised capital of wholly or partly foreign-owned firms (June 1992)

Average capitalisation	13 000 registered projects = 100%
US$ 14 000 or less	64.0%
US$ 134 000 or less	91.0%
US$ 134 001 to US$ 667 000	5.0%
US$ 667 001 to US$ 1 334 000	1.7%
US$ 1 334 001 or more	2.3%

Source: *Hungarian National Statistics*

Table 12. Hungary: Registered FDI projects and average authorised capital of wholly or partly foreign owned enterprises, by year, 1989-1992 (million HUF and percentage)

Average capitalisation	1990	1991	1992
- 1	35	37	66
1 - 10	43	42	26
10 - 50	13	12	4
50 - 100	3	3	2
100 -	6	6	2

Source: *National Bank of Hungary* (April 1993)

Table 13. Hungary: Sectorial Distribution of FDI: cumulative in value terms, 1989-1992 (% of total)

	1989	1992
Manufacturing	35.0%	58.3%
Trade	4.0%	11.7%
Hotels and restaurants	18.0%	7.5%
Finance	30.0%	8.0%
Transport & communications	3.0%	1.0%
Health and services	4.0%	0.3%
Others	6.0%	12.9%

Source: The Economist Intelligence Unit, *Hungary*: *Country Report* 4 (1992).

7. *Statistical Data on FDI in Poland*

Table 14.

Poland: Registered projects and average initial capital of wholly or partly foreign-owned firms (end of June 1992)

Average capitalisation	**8,988 registered FDI = 100%**
More than 1.83 mil. US$	3.4%
From 913,000 to 1.83 mil. US$	4.0%
From 460,000 to 913,000 US$	4.5%
Less than 460,000 US$	88.1%

Source: *Polish National Statistics*

Table 15. Poland: Pattern of FDI in percentage of registered projects in the most popular sectors, end of June 1992

Sectors	**Percentage of total companies with foreign participation**
Wholesale trade	13
Construction works	5
Textile	3
Transport	2

Source: *Polish Statistical Office*. Data based on 8,988 companies registered in Poland at the end of June 1992.

Table 16. Poland: National origin of foreign investment projects in terms of capital value and number in 1991 and 1992 (cumulative, in million US$)

	1.01.91		1.04.92		1.07.92	
	Rank	**Value**	**Rank**	**Value**	**Rank**	**Number**
Germany	1	100	1	n.a	1	37.0%
Sweden	2	30	5	n.a	2	8.0%
USA	3	28	n.a	n.a	3	7.9%
Austria	4	20	n.a	n.a	4	6.9%
URK	5	15	2	n.a	6	4.9%
Norway	n.a	n.a	3	n.a	n.a	n.a
Switzerland	6	14	4	n.a	8	3.9%
France	n.a	n.a	n.a	n.a	5	5.1%

Sources: United Nations, ECE; Polish National Agency for Foreign Investment.

8. *Statistical Data on FDI in Romania*

Table 17. Romania: Size of foreign investment (percentage of the total number of registered projects, 1991-1993)

Part of capitalisation attributable to foreign partners	**(1.01.91)**	**(1.01.93)**
US$ 1 million or more	0.5	0.29
US$ 100 000 or less	95	98.17
US$ 50 000 or less	90	96.57

Sources: United Nations, ECE; Romanian Agency for Foreign Investment (January 1993).

Table 18. Romania: Sectorial Distribution of FDI
(cumulative number of registered projects, January 1992 and January 1993)

Fields	Weight of companies that included field %	
	1.1.92	**1.1.93**
Trade	94.3	96
Transport	41.8	57
Tourism	47.4	53
Food industry	21.6	51
Light industry	15.4	42
Infrastructure	18.5	29
Agriculture	13.9	27
Electronics	7.5	18
Electrotechnics	6.9	17
Building industry	5.6	10
Telecommunications	4.6	6
Banking	3.8	3
Mining industry	1.0	2
Other	89.4	89

Note: The percentages cannot be totalised because most of the commercial companies with foreign participation have declared more than one field of activity.

Source: National Agency for Privatisation; Romanian Foreign Investment Development Agency (January 1993)

Table 19. Romania: National origin of FDI, cumulated registered projects and FDI value (end-December 1992)

Country	Capital (mil. US$)	Number of companies
1. Italy	70.55	1 986
2. Netherlands	65.96	309
3. USA	64.45	1 061
4. Great Britain	63.79	286
5. Germany	58.59	2 529
6. France	56.77	723
7. Canada	17.32	252
8. Turkey	16.60	1 832
9. Spain	12.62	78
10. Greece	10.67	607
Total	539.86	20 769

Note: Top 10 investing countries by value

Source: Romanian Development Agency (February 1993)

Table 20. Romania: Geographical distribution of FDI (cumulative, registered projects and foreign capital, January 1993)

Region	No. of companies	%	Capital (mil. US$)	%
Bucharest	12 261	59.29	264.39	49.16
Cluj	1 127	5.45	4.28	0.80
Constanta	1 058	5.12	9.84	1.83
Timis	1 011	4.89	23.70	4.41
Bihor	501	2.42	38.32	7.13
Arad	331	1.60	2.57	0.48
Lasi	258	1.25	14.31	2.66
Brasov	173	2.15	7.13	2.65
Sibiu	170	2.11	2.59	0.96
Hunedoara	112	0.54	15.33	2.85
Caras Severin	74	0.36	23.90	4.44
Vilcea	60	0.29	14.70	2.73
Subtotal	17 136	82.85	421.06	78.27
Other areas	3 545	17.15	116.76	21.13
Total	20 681	100.00	536.82	100.00

Source: Romanian Development Agency (March 1993)

9. *Statistical data on FDI in Russia*

Table 21. Russia: Sectorial Distribution of FDI
Total number of operating foreign investment companies in Russia
by economic sector, June 1992

Fields	**Weight of companies that included field %**
Consumer goods	21.5
Information services	19.5
Other services	13.0
Research and Development	11.3
Energy, mining	8.7
Machinery, trans. Equip.	8.1
Hotels, restaurants	7.8
Retail/wholesale trade	3.0
Communication, transportation	2.7
Other	4.6

Source: The World Bank, *Foreign Direct Investment in the States of the Former USSR*, 1992.

Table 22. Russia: National origin of foreign investment in terms of both number of foreign investment enterprises and foreign capital flows, cumulative projects, end April 1992

	Number of projects		Capital value commitment	
Investing countries	**Rank**	**Number as percentage of total foreign investment enterprises**	**Rank**	**As percentage of total FDI commitment**
United States	1	14.50	1	61.0
Germany	2	13.60	5	4.2
Sweden	3	7.72	7	2.8
Finland	4	7.57	9	2.1
Italy	5	7.21	2	5.8
Austria	6	6.00	6	3.3
Other	7	43.50	10	20.8

Data calculated from: *INTERFAX* (FBIS-SOV-92-119, 19 June 1992)

Table 23. Russia: Geographical distribution of FDI (cumulative, registered and operational projects in terms of number, June 1992)

	Existing on 1.06.1992	Registered on 1.06.92	% of existing	% of total
Russia	1,352	2,648	51.1	100.0
North	102	206	49.5	7.5
North-west	124	193	64.3	9.2
St. Petersburgh	110	177	62.1	8.1
Central	628	1,281	49.0	46.4
Moscow City	538	1,143	47.1	39.8
Volga-Vyatka	30	55	54.5	2.2
Central Chernozem	33	40	82.5	2.4
Volga	74	169	43.8	5.5
North Caucasus	70	123	56.9	5.2
Urals	64	102	59.4	4.7
West Siberia	57	106	53.8	4.2
East Siberia	31	62	50.0	2.3
Far East	118	266	44.4	8.7
Kaliningrad	21	45	46.7	1.6
Unknown	74	169	43.8	5.5

Source: *Goskomstat Rossii.*

10. *Statistical data on FDI in the Slovak Republic*

Table 24. The Slovak Republic: Growth of Foreign Direct Investment, 1992-93

	Cumulative 31.12.1992	**I.Q 1993**	**II.Q 1993**
FDI flows			
- SK thousands	6 607 072	1 077 173	1 560 140
-US$ thousands	231 226	36 874	52 320
Number of registered projects	2 825	385	738

Source: *Slovak Statistical Office*. Only committed FDI.

Table 25.
The Slovak Republic: Foreign Investment Projects by Industry, 1992-1993

Industry	Cumulative committed foreign capital at the end of each quarter (mn US$)			
	I.Q 1992	**IV.Q 1992**	**I.Q 1993**	**II.Q 1993**
Agriculture, forestry, fishing	0.4	0.2	0.2	1.26
Mining and quarrying	2.1	2.2	2.1	0.0
Manufacturing	69.7	115.5	139.0	170.7
Electricity, gas and water	0.0	0.0	0.0	0.0
Construction	7.3	7.2	7.2	7.3
Retail trade and repair	23.0	67.6	72.5	74.4
Hotels and public catering	0.1	0.4	0.6	18.4
Transport & communication	1.0	1.4	1.6	1.6
Banking and insurance	11.0	18.2	26.2	28.0
Business services, R&D	6.5	17.1	18.1	18.1
Education	0.0	0.0	0.0	0.0
Health care and social services	0.0	0.0	0.0	0.0
Other services	1.8	1.2	2.9	3.0

Note: at the end of each quarter. Figures may not add to totals because of rounding. Industrial classification is general industrial classification of economic activities within the European Communities (NACE) corresponding to ISIC Rev. 3 at 2 digit level. Data converted in US$ at the following exchange rate: US$ 1/SK 28.6.

Source: *OECD/ECO databank - Slovak Statistical Office*

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