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The Mexican Senate has approved major changes to the country's foreign-investment law (Ley de Inversion Extranjera, LIE) that would place strict limits on foreign acquisitions of Mexican companies through "neutral investment."

The Senate decision, approved unanimously on April 4, effectively closes a loophole that allowed foreigners to acquire Mexican companies through front operations. In many cases, foreigners used Mexican nationals to acquire companies in certain industries, like transportation, where direct foreign investment is prohibited. In changes to Article 18 of the LIE, the Senate stipulated that neutral investment will be limited to funding that comes "from trust funds, investment societies, or foreign-investment funds and at no time and in no circumstances will [foreign investors] participate in operating or managing the company."

The changes were promoted by Camara Nacional de Autotransporte de Carga (CANACAR), which has faced growing competition from US carriers operating in Mexico through a front company (see SourceMex, 2000-11-01). "With these reforms we can protect Mexican investors and prevent foreign companies from gaining control of some important sectors of our economy," said CANACAR director Jose Munoz.

While CANACAR strongly supported the initiative, most other private business organizations expressed strong reservations about the bill. "Our country is competing heavily for foreign investment, and, if we continue to put these types of restrictions on capital, it will go elsewhere," said Gaston Azcarraga, president of the Consejo Mexicano de Hombres de Negocios (CMHN).

The Centro de Estudios Economicos del Sector Privado (CEESP) noted that the Senate approved the measure quickly and without considering the position of the private sector. "This was a very strange process," said CEESP director Claudio X. Gonzalez. "There was no discussion, no analysis, and no opportunity for rebuttal."

Syndicated columnist Sergio Sarmiento wrote the Senate decision runs counter to Mexico's efforts to promote employment. "Our country needs more and more investment to grow and generate more jobs," said Sarmiento. "This is the only way to prevent Mexicans from continuing to abandon our country to seek jobs elsewhere."

Lower house must still approve initiative

The American Chamber Mexico also denounced the Senate initiative as a violation of Mexico's commitments under several trade treaties. "Such reforms not only carry negative effects, but they are also in violation of commitments made by Mexico under various free-trade agreements and

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reciprocal investment accords," said chamber vice president Larry Rubin. Rubin said the chamber would turn its lobbying efforts to the Chamber of Deputies, which must ratify the reforms.

The initiative could face an uphill battle in the lower house, especially if a majority of members of the former governing Partido Revolucionario Institucional (PRI) and the pro-business Partido Accion Nacional (PAN) join forces. "We have not studied this initiative very closely," said PRI Deputy Nora Yu, "but at this point we're inclined to reject it."

President Vicente Fox's administration has also joined in opposing the bill, arguing that the changes in the investment law create further opportunity for friction with trade partners. "The worst aspect [of these reforms] is that they could create conflict with various economic sectors and fundamentally change the nature of our trade agreements with the US, Canada, and Japan," said Gregorio Canales, director of the foreign-investment division at the Secretaria de Economia (SE).

Canales also raised concern about the decision to allow neutral investments only through trust funds, investment societies, and foreign-investment funds. "This would expose the capital of investors to greater risks and increase uncertainty," said the SE official. (Sources: El Universal, 04/19/06; The Herald-Mexico City, 04/20/06; Excelsior, 04/19/06, 04/21/06; Reforma, 04/19-21/06; La Jornada, 04/20/06, 04/21/06; Notimex, 04/24/06; El Economista, 04/18-20/06, 04/25/06; El Financiero, 04/24/06, 04/25/06)

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