

Direct Foreign Private Investments: National and International Definitions. Valuations and Orientations

By **Constantinos GE. ATHANASSOPOULOS**

Professor of Panteion University S.P.S.

and Ph. D. **Vas. DELITHEOU**

A. Definitions and orientations

The term «investment», as we have stated in former monographs¹, is used to describe the locking-up of capital in order to make profit during a long-term period, at the risk of failure and suffering a loss.

Otherwise, «investment» is the disposal of the buying capacity of acquired goods and services, in order to have an income.

In Economical terms, «investment» is usually defined by «objective and logical criteria» (permanent assets, produced goods, etc.), while in many cases the constituent parts of the term «investment» are related to the nature of the economic activities, or to the nature of the products.

In Greece, neither science nor legislation has the same definition for the term «investment»².

Likewise, on an international level the explanation of the term «investment» diversifies as the case may be. However, the determination of the exact meaning of the term usually derives from the legal texts of the International Conventions / Resolutions / Agreements, in consideration with the problem which has to be solved. On many occasions, «investment» is defined primarily by the Economic Sciences and lastly by the Law Sciences and the Legislation.

1. See Const. GE. ATHANASSOPOULOS: *Legislation of the Regional Development*. Vol. A', B', C' and D'. Athens, 1st edition 1984. Vol. A', B', C', D' edit. 2001. Vas. DELITHEOU: *The legal frame for the protection of growth nature foreign capital and investments in Greece*. Athens, 1996.

2. See Const. GE. ATHANASSOPOULOS: *Institutional Frame of Regional Development*. Vol. A', D' ed. Athens, 2000, pp. 43.

The Organization for the Cooperation and the Economic Development³ (O.E.C.D.) is one of the most important international organizations, which has been engaged in international private productive investments and has endeavoured to facilitate the international constant flow of capital. In 1961, O.E.C.D. issued the Code for the Free Movement of Capital and in 1976 the Code of Behaviour towards International Companies. The text of the Code of Behaviour provoked numerous comments during the Conference of the Ministers of the Member - States of the O.E.C.D. on June 1979 and it was partially revised in the same year.

In 1981 the Council of Ministers of the Member - States adopted a Resolution considering the motives and the obstacles related to the international investments. This Resolution was the forerunner of the Multilateral Agreement on Investment (M.A.I.), which was signed on the 12th of February 1998.

According to the final text of M.A.I., «investment» is any kind of asset, which is under the direct or indirect control of the investor and may be a company, shares or holdings of a company, bonds, loans or any other kind of debts, rights derived from contracts, money demands, copyrights, licenses, assignments, goods or services, real or not assets, leases, mortgages, etc. The M.A.I. may be applied to any territory (land or sea) which is under the sovereignty of any contracting party.

The M.A.I. primarily stands for the investments that take place in the 29 Member - States of the O.E.C.D. These Countries realize 85% of the direct productive investments worldwide.

The M.A.I. provides such extensive possibilities to the free movement of capital, which seeks to be invested, that many people characterized the Agreement as the Constitution of World Finance. Nevertheless, many Parts and the European Parliament criticized the Agreement for the unfair treatment of foreign investors, as it provides unequal rights and obligations to foreign and native investors. On the other hand, many people consider that M.A.I. agrees with the contemporary spirit of the Global Economy.

B. The importance of investments and especially of foreign investments

It is obvious that investments and especially foreign private investments are very important to the economy of a Country under development or even to a developed one. Henceforth, it is not necessary to analyse the economic role of foreign private investments. However, this kind of investment can possibly influence positively many sectors of the Country, which accepts them:

Firstly, they provide a flow of means that are useful to the economic and industrial development of the Country, which accepts such investments.

They facilitate the importation of new and very often high technology in the Country, which accepts the investments.

They contribute to the development of human resources, to the instruction and specialization of the labour force, as well as to the increase of employment.

3. The State-Members are the followings: Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxemburg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States.

They facilitate the introduction of new methods of management and new practices in commerce.

They encourage the reform of the general structures of the State and the improvement of the national industrial and manufacturing sectors.

They promote the Regional Development of the Country, which accepts these investments.

For the above reasons, private foreign investments play a vital role in the Country that accepts them.

C. The expectations of the Countries that accept foreign investments

The attraction of foreign investments for a country like Greece aims to:

- the providing of the required foreign exchange and to the improvement of the balance of payments⁴.
- the decrease of imports and the gradual lessening of the external dependence of the country.
- the exportable orientation of foreign investments.
- the rise of productivity⁵.
- the transformation of new technology.
- the gradual restriction of unemployment.

D. Foreign Investments: economic outlook for the period 2000-2005, estimations and orientations

Economist Intelligent Unit (E.I.U.) realized a special research on the progression of direct foreign investments worldwide during the period 2000-2005 in 60 Countries.

Table 1

According to these elements, Greece will absorb 1,44 billion U.S.A. dollars annually, during the period 2000-2005. This amount of money is not important, especially if we take into consideration the potentialities of the contemporary Greek Economy. It should be noted that Greece has to realize private investments of 4.000.000.000 Dr. in order to absorb the funds of the Third Community Support Frame. The research of the E.I.U. is optimistic towards the perspective of the rise of investments. The Greek State has to resort to measures for the attraction of foreign investments and to promote the possibilities of the Greek economy and society.

The Authors of this article consider that the Greek State has to take the following steps in order to succeed in their goal:

On a political level⁶, the phenomenon of the continuing change of political choices by each Government on subjects of great importance for the investors (foreign and native) must disappear, as for example the question on the extension of the powers of the State, on a broad or a shrunk Public Sector, on the labour legislation, e.t.c.

4. See T. GIANNITSIS: *Problems of the Greek development. Economy and Society*, V. 1, May 1979, p. 29-32.

5. See V. PAPANDREOU: *Multinational Companies and Countries under development. The case of Greece*. Athens, 1981, p. 127.

6. See V. DELITHEOU: *The legal frame for the protection of foreign capitals and development character investments in Greece*. Athens, 1996, p. 223.

On a legislative level, the phenomenon of the continuing change of the legislation that is related to development must disappear. This legislation has to be rational, stable, and contemporary and to stay far away from political dilemma and choices.

In our Country the legislation related to investments is changing continuously, without any specific reason. Numerous Laws, Presidential Decrees, Ministerial Decisions, Acts of the Cabinet Board, Acts of the Governor of the National Bank or Circulars regarding investments, have been issued⁷ from 1952 until today. Besides this special legislation, it should be noted that 2.178 Laws, 14.248 Presidential Decrees and 17.638 Ministerial Decisions regarding any subject, have been issued during the period 1975-1993. The above description illustrates how complicated the legislation in Greece is. A later law reverses a former law, so the legislative status does not encourage investments, and especially the foreign investors who are used to working in a stable status.

As a result, a new legislative frame, which would provide a short procedure for the approval of the applications for investments should be established, especially for foreign investments, more incentives and subsidies, as well as much more involvement and participation of the Banks into the domain of lending to companies, which come under the relative legislation.

Additionally, it might be necessary to set up a special Commission, which consists of the responsible General Secretaries of the Ministries, or even the responsible Ministers, in order to accelerate the administrative procedure of the approval of foreign investments of great importance.

The codification of the relative legislation, as well as the adoption of simple, radical, and stable rules towards investments is also an imperative measure that should be taken in order to attract foreign capital.

On an Administrative level, the reformation of the structures and the modernization of Public Administration are required, so that the Greek Economy growth and the development of the Country move forward. The fact that 5 Ministries and other Public Services are involved in the procedure for the approval of an investment is noteworthy. It is obvious that Development, in a wider sense (economic, social, cultural, national or regional), will be attainable only if Public Administration runs smoothly⁸.

As regards the investors, Services have to «evaluate» and search the identity of the investors and their former business activities, so that investors who come under the regulation, but do not have the required financial sources for the realization of an investment, would not have the right to be examined by the Introductory Commissions.

Finally, on a scientific level, Scientists have to proceed into extensive examination and research of the relative subjects. They should not be occupied only with the examination of the legislative frame towards investments and capital, but also with the study of a probable transformation - well adjusted to the Greek environment - from the experiences of other Countries and International Organizations as for example the O.E.C.D.

7. See Const. GE. ATHANASSOPOULOS: *Legal frame of the Regional Development. Vol. C', new edition, Athens, 2001, p. 8.*

8. See Const. GE. ATHANASSOPOULOS: *Between debaters. Review of Decentralization, Local Government and Regional Development. Athens 1995, is. 2, p. 1.*

Table 1
Inflow of foreign investments 2000-2005

	Total (Billion dollars)	Ranking	% Share of international inflows
U.S.A.	234,66	1	23,91
Great Britain	81,18	2	8,27
Germany	66,74	3	6,80
China	60,40	4	6,15
Holland	53,14	5	5,41
France	51,42	6	5,24
Belgium	33,08	7	3,37
Canada	31,75	8	3,23
Hong Kong	28,04	9	2,86
Brazil	24,20	10	2,47
Spain	23,10	11	2,35
Italy	21,47	12	2,19
Sweden	18,32	13	1,87
Ireland	15,68	14	1,60
Mexico	14,70	15	1,50
Australia	12,70	16	1,29
Switzerland	11,02	17	1,12
Danish	9,12	18	0,93
Polish	7,44	19	0,76
Russia	6,90	20	0,76
Signapore	6,84	21	0,70
Saudi Arabia	6,60	22	0,70
Argentina	6,50	23	0,67
South Korea	6,36	24	0,66
Japan	6,28	25	0,65
Taiwan	5,35	26	0,64
Austria	5,34	27	0,54
India	5,32	28	0,54
Czech	5,06	29	0,52
Chile	4,73	30	0,48

	Total (Billion dollars)	Ranking	% Share of international inflows
Norway	4,68	31	0,48
Malaysia	4,36	32	0,44
Thailand	4,33	33	0,44
Finland	4,13	34	0,42
South Africa	3,65	35	0,37
New Zealand	3,57	36	0,36
Israel	3,53	37	0,36
Portugal	3,30	38	0,34
Venezuela	3,29	39	0,33
Indonesia	3,12	40	0,32
Turkish	2,58	41	0,26
Hungary	2,34	42	0,24
Nigeria	2,25	43	0,23
Filipinos	2,05	44	0,21
Colombia	1,98	45	0,20
Vietnam	1,93	46	0,20
kazakhstan	1,83	47	0,19
Egypt	1,80	48	0,18
Slovakia	1,54	49	0,16
Rumania	1,49	50	0,15
Greece	1,44	51	0,15
Peru	1,42	52	0,14
Algeria	1,40	53	0,14
Ukraine	1,20	54	0,12
Equatorial	1,14	55	0,12
Bulgaria	0,99	56	0,10
Azerbaijan	0,90	57	0,09
Pakistan	0,49	58	0,05
Iran	0,37	59	0,04
Sri lank	0,34	60	0,03

Table 2
Business environment: grade and classification

	1997-2001		2002-2006		Chan. in total grade	Chan. in Clas.	Quality Evaluation	
	Total Grade	Cl	Total Grade	Cl			1997- 2001	2002- 2006
	Total Grade	Cl	Total Grade	Cl	0,23	1	Very good	Very good
Holland	8,65	2	8,88	1	0,23	1	Very good	Very good
Canada	8,59	5	8,73	2	0,23	3	Very good	Very good
U.S.A.	8,69	1	8,71	3	0,02	-2	Very good	Very good
Great Britain	8,63	3	8,67	4	0,44	-1	Very good	Very good
Switzerland	8,44	6	8,59	5	0,15	1	Very good	Very good
Ireland	8,17	9	8,58	6	0,41	3	Very good	Very good
Danish	8,09	10	8,57	7	0,48	-3	Very good	Very good
Finland	8,29	8	8,55	8	9,26	0	Very good	Very good
Hong Kong	8,61	4	8,50	9	-0,11	-5	Very good	Very good
Singapore	8,40	7	8,47	10	0,77	-3	Very good	Very good
Sweden	8,06	12	8,46	11	0,40	1	Very good	Very good
Germany	7,93	13	8,34	12	0,41	1	Good	Very good
Australia	7,86	15	8,27	13	0,41	2	Good	Very good
Belgium	7,90	14	8,26	14	0,36	0	Good	Very good
France	7,77	16	8,23	15	0,46	1	Good	Very good
New Zealand	8,06	11	8,17	16	0,11	-5	Very good	Very good
Spain	7,37	19	8,08	17	0,71	2	Good	Very good
Norway	7,57	18	8,07	18	0,51	0	Good	Very good
Austria	7,57	17	8,04	19	0,46	-2	Good	Very good
Taiwan	7,35	20	8,01	20	0,66	0	Good	Very good
Chile	7,14	21	7,95	21	0,81	0	Good	Good
Italy	6,91	23	7,68	22	0,77	1	Good	Good
Portugal	7,00	22	7,61	23	0,61	-1	Good	Good
Israel	6,85	24	7,61	24	0,76	0	Good	Good
Hungary	6,56	27	7,27	25	0,72	2	Good	Good
Japan	6,60	26	7,27	26	0,67	0	Good	Good
South Korea	6,35	31	7,24	27	0,89	4	Fair	Good
Mexico	6,32	32	7,21	28	0,88	4	Fair	Good
Czech	6,47	30	7,20	29	0,73	1	Fair	Good
Polish	6,49	29	7,08	30	0,59	-1	Fair	Good

	1997-2001		2002-2006		Chan. in total grade	Chan. in Clas.	Quality Evaluation	
	Total Grade	CI	Total Grade	CI			1997- 2001	2002- 2006
	Total Grade	CI	Total Grade	CI	0,23	1	Very good	Very good
Thailand	6,30	33	7,02	31	0,73	1	Good	Good
Malaysia	6,84	25	6,68	32	-0,55	-8	Good	Good
Slovakia	5,63	35	6,63	33	1,00	1	Fair	Good
Filipinos	5,48	38	6,53	34	1,05	3	Poor	Good
South Africa	5,56	36	6,44	35	0,88	0	Poor	Fair
Bulgaria	5,10	47	6,36	36	1,27	10	Poor	Fair
Saudi Arabia	5,46	39	6,30	37	0,85	1	Fair	Fair
Peru	5,55	37	6,28	38	0,73	-2	Fair	Fair
Brazil	5,36	40	6,27	39	0,90	0	Poor	Fair
India	5,19	46	6,27	40	1,07	5	Poor	Fair
Argentina	6,51	28	6,17	41	-0,34	-14	Good	Fair
China	5,31	43	6,08	42	0,77	0	Poor	Fair
Turkish	5,20	45	6,05	43	0,85	1	Poor	Fair
Sri lank	4,99	49	6,03	44	1,04	4	Very poor	Poor
Colombia	534	41	5,96	45	0,62	-5	Poor	Fair
Egypt	5,32	42	5,75	46	0,43	-5	Poor	fair
Russia	4,27	55	5,70	47	1,44	7	Very poor	Fair
Indonesia	5,09	48	5,69	48	0,61	-1	Poor	Fair
Rumania	4,33	53	5,60	49	1,27	3	Very poor	Fair
Kazakhstan	4,63	50	5,50	50	0,88	-1	Very poor	Fair
Equatorial	4,15	56	5,38	51	1,23	4	Very poor	Fair
Azerbaijan	4,32	54	5,36	52	1,04	1	Very poor	Poor
Vietnam	4,57	51	5,32	53	0,75	-3	Very poor	Poor
Ukraine	3,60	59	5,30	54	1,69	4	Very poor	Poor
Venezuela	5,30	44	5,30	55	-0,01	-12	Poor	Poor
Pakistan	4,36	52	5,09	56	0,73	-5	Very poor	Poor
Algeria	4,07	57	5,08	57	1,01	-1	Very poor	Poor
Iran	3,31	60	4,56	58	1,26	1	Very poor	Poor
Nigeria	3,95	58	4,47	59	0,54	-2	Very poor	Poor
Average	6,33	-	6,98	-	0,64	-	-	-
Quality Evaluation: Very good = 8+, Good = 6,5 - 8, Mead = 5,5 - 6,4.								