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FEATURED Q&A

How Can Latin America Attract More Investment?



Foreign investment may be a key to Latin America's economic recovery from the Covid-19 pandemic. // File Photo: Christian Dubovan via Unsplash.com.

Q The World Bank is projecting that the recession facing Latin America and the Caribbean will be the worst the region has seen in more than a century—even worse than the Great Depression. Experts at the institution have also said that policies to increase private sector investment will be particularly important as the region looks toward economic recovery. What must governments in the region do in order to attract more foreign investment? What are the main reasons why foreign investors hesitate to put more money to work in Latin America and the Caribbean? How important are factors including the rule of law, property rights, dispute resolution and other conditions in making investment decisions in the region, and what can countries do to strengthen them?

A Enrique Carrizosa, chairman of the board at IC Inversiones: "Latin America's economic outlook is very concerning. The region has made significant strides in reducing poverty and inequality, which the pandemic will likely reverse. Governments must tackle many challenges at the same time, but they will be more successful if they recognize that foreign direct investment will be a key driver of economic recovery. As the world competes to attract investors, Latin America needs to create a stable regulatory environment for them. According to the World Bank Global Competitiveness report, which interviewed more than 2,400 executives, rule of law is the most important factor for companies' investment decisions. Effective mechanisms to resolve disputes are a key component of rule of law. The significant number of foreign companies, including our own, involved in lengthy and costly

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TODAY'S NEWS

ECONOMIC

Mexico's Economy Contracts 17.3% in Second Quarter

Mexico's economy experienced its sharpest quarterly contraction on record, shrinking 17.3 percent in the second quarter as compared to the first. The economy shrank nearly 19 percent in the quarter, year-on-year.

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BUSINESS

Chilean Gov't Rules Out Codelco Privatization

Privatizing state-owned mining company Codelco is not part of the government's agenda, said Chilean Mining Minister Baldo Prokurica.

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POLITICAL

Fernández Unveils Judicial Reforms in Argentina

Argentine President Alberto Fernández announced a package of judicial reforms, including a move to more than triple the number of federal courts, which would dilute the power of those currently in existence.

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Fernández // Photo: Argentine Government.

POLITICAL NEWS

Argentine President Launches Judicial Reform Package

Argentine President Alberto Fernández on Wednesday announced a package of judicial reforms, which would increase the number of federal courts from 12 to 46, diminishing the power of those that are currently operating, Reuters reported. The reforms were among Fernández's main promises when he took office last December. Argentina's courts have frequently been accused of bias in recent decades. "I only seek to have the republic that everyone declares, but that some have humiliated," Fernández said in announcing the reforms, the Buenos Aires Times reported. Fernández, who is a criminal law professor, said the move would help the country's justice system regain "credibility." The president also said his government would create an advisory commission comprised of 11 legal experts who will discuss other changes to the country's judicial system. Some analysts see the move as a step toward increasing the number of justices on Argentina's Supreme Court. The reforms would also seek to put in place an "accusatorial" legal system, which lawmakers previously approved, but which former President Mauricio Macri blocked. Several government and judicial officials, including Supreme Court Justice Elena de Nolasco, were present at the announcement, but several prominent officials were absent. Not a single member of the opposition attended Fernández's announcement, the Buenos Aires Times reported. Opposition lawmakers have rejected the reforms, saying they are an effort to manipulate Argentina's court system and promote "impunity" for corrupt politicians. Also among the opponents is Maxi

SUBSCRIBER NOTICE

The Latin America Advisor will not be published on Friday, July 31 due to a staff-wide holiday. We will resume publishing on Monday, Aug. 3.

Ferraro, the president of the Civic Coalition ARI. "There is no possibility of serious judicial reform in this difficult social and economic context," said Ferraro. "Much less when a plan of impunity is sought and to break the actions of the independence of justice." However, Fernández administration officials rejected the claims that the reforms would lead to impunity. "We have heard the claims that this reform suits the government or the vice president's bid for impunity. Nothing is further from reality—those currently in the system will continue to have their cases tried by the same judges," said Justice Minister Marcela Losardo.

ECONOMIC NEWS

Mexico's Economy Sees Record Drop, Shrinks 17.3% in Q2

Mexico's economy saw its steepest drop on record in the second quarter as lockdowns to contain the spread of coronavirus paralyzed factories and services, according to data released today by the National Statistics Institute, The Wall Street Journal reported. Gross domestic product contracted 17.3 percent in seasonally adjusted terms from the first quarter and shrunk 18.9 percent as compared to the same period a year earlier. Industrial production in the second quarter fell 23.6 percent from the first quarter, while services were down 14.5 percent. Agricultural production fell 2.5 percent. The government shut down activities deemed nonessential throughout April and May, causing the loss of millions of jobs. While gradual reopenings began last month, capacity restrictions have remained in place for most of the country. Mexico has reported more than 408,000 cases of the novel coronavirus, and it has more than 45,000 confirmed deaths. It has registered the fourth-highest number of coronavirus-related deaths worldwide, although analysts say the country's official figures might seriously underestimate the real toll due to a lack of widespread testing. On Wednesday, Gerardo Esquivel, deputy governor of Mexico's

NEWS BRIEFS

Mexico's Supreme Court Rejects Decriminalization of Abortion in Veracruz

Mexico's Supreme Court on Wednesday rejected an injunction that could have decriminalized abortion in Veracruz state, the Voice of America reported. The high court judges voted 4-1 against removing articles from the criminal code regarding abortion in the first 12 weeks of pregnancy. Abortion in Veracruz is only allowed in instances of rape, with a police report and only within 90 days. Only two of Mexico's 32 states, Oaxaca and Mexico City, have legalized the procedure.

Apache, Total Make Third Discovery of Oil Off Suriname's Coastline

U.S.-based oil producer Apache and joint venture partner Total announced Wednesday that they had made their third oil discovery off the coast of Suriname, Reuters reported. "This is the best well we've drilled in the basin to date, with the highest net pay in the best quality reservoirs," said Apache's CEO, John Christmann. The discovery is seen as critical to Apache's attempts to lower its reliance on the Alpine High venture in the Permian basin in Texas, the wire service reported.

Mexico's López Obrador Eyes Constitutional Change to Boost Pemex

Mexican President Andrés Manuel López Obrador said Wednesday that his government might seek to modify the constitution in the second half of his term to boost state oil firm Pemex and national power company CFE, Reuters reported. He said his government was not currently considering the move, which could potentially reverse the recent liberalization of Mexico's energy market, adding that it could not be ruled out if it became necessary in order to help strengthen the state-run energy firms.

central bank, said the country's economy could contract between 8.5 percent and 10.5 percent this year, Reuters reported. "It wouldn't be until 2022 that we would expect to return to the production levels we had before the start of the pandemic," Esquivel said.

BUSINESS NEWS

Chile's Government Rules Out Privatizing State Miner Codelco

The Chilean government on Wednesday said privatizing state-owned mining giant Codelco, the number-one copper producer in the world, is not part of its agenda, following a proposal by a small group of lawmakers to sell it off to raise funds amid the economic fallout wrought by the coronavirus pandemic, Reuters reported.



Prokurica // File Photo: Chilean Government.

An internal document attributed to the far-right Independent Democratic Union party, leaked to Chilean media earlier this week, proposed selling Codelco among a series of measures to raise money to deal with the crisis. "Faced with the statements of some deputies who suggested the privatization of Codelco, I want to say emphatically that it is not part of the government program," Mining Minister Baldo Prokurica said Wednesday. "I totally rule out that there is an initiative in this matter," he added. Chile's Chamber of Mines and unionized workers also opposed the plan this week. "Codelco is Chile's most important company in terms of contribution to the government's coffers and the country's pride," Manuel Viera, president of the Chilean mining chamber, told local media, Mining.com reported.

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international arbitration cases is concerning. It reflects a weakness in state institutions to provide stability for investors, forcing companies to turn to international tribunals. Latin America needs to build stronger institutions and increase regulatory certainty in its effort to attract investors. Another factor that will affect foreign investment is deglobalization, a trend that was present before but one that the pandemic has worsened. In their effort to protect vulnerable industries and infrastructure, Latin American countries have looked inward. This cannot become a long-term policy. Countries in the region must continue to engage in global trade, partnerships and investment if they are to grow and prosper. The region has made great strides in opening its markets over the past decades, and this trend must certainly continue."

A **Julissa Reynoso, partner at Winston & Strawn:** "Latin America and the Caribbean must support those sectors that have been hardest hit by the crisis, but also those that have a chance to grow, adapt and experiment during and after the crisis with the ultimate goal of keeping businesses operational so as to generate opportunities for employment. In order to maximize opportunities and attract foreign investment, countries in the region should be proactive in engaging with the foreign investors that are already operating in country. National governments should move quickly to understand the needs and plans of foreign companies in light of these turbulent times. Openness and flexibility are essential. Governments should proactively work with foreign companies and help them adapt to changing demands and operations including, for example, by providing support for companies that require changes to their manufacturing processes in order to produce essential products such as medical supplies and identifying local suppliers to provide foreign companies with alternative local input sources and other lo-

cal means of support. The countries that are best equipped to adopt and accommodate to the changing needs and plans of foreign companies are likely to attract even greater foreign investment as word among the inter-

“**Governments should proactively work with foreign companies and help them adapt to changing demands and operations...**”

— Julissa Reynoso

national community of a country's openness and business climate is likely to grow. While governments and businesses grapple with these extraordinary times, strong, independent courts and adherence to the rule of law, in particular the protection of private property, are crucial as a source of stability and security and as a means of generating confidence by foreign investors."

A **Joy K. Gallup, partner in the Latin America and Corporate practices of Paul Hastings:** "Foreign investors attracted to Latin America and the Caribbean are seeking relatively high yields and robust liquidity for investments in capital markets and finance, and relative ease of execution for direct investment, but more importantly, they are also seeking economic stability. Making tax regimes more favorable to foreign investors (such as withholding tax reforms) and simplifying bureaucratic processes (such as the time it takes for antitrust or other applicable regulatory authorities to approve mergers) are regulatory actions that governments in the region might undertake. However, during a severe downturn, an immediate focus for governments should be adopting the necessary monetary and fiscal policies to counter inflation and provide stimulus to distressed economies. Another important factor for

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investors is downside protection, including clarity as to how their investments will be treated in a bankruptcy or liquidation scenario. Creditors' rights and the protections granted to secured and unsecured creditors in a restructuring, as well as the rule of law in general, remain significant issues for attracting foreign investment. In a time of great economic crisis such as the one the region is currently facing, the region's lack of the types of lender and investor protections available elsewhere may be one of the strongest drivers of investors' decisions. Bankruptcy law reform may be difficult to accomplish, but adopting laws that accelerate the reorganization process and provide greater certainty to investors as to equitable outcomes in a bankruptcy or liquidation will be critically important for attracting more foreign investment."

A **Scott B. MacDonald, chief economist at Smith's Research & Gratings:** "Prospects for foreign investment flows into Latin America and the Caribbean in 2020 are seriously challenged. According to UNCTAD's World Investment Report 2020, investment flows to the region are expected to halve this year from \$164 billion received last year. The big difference is the Covid-19 pandemic. The GDP of Latin America and the Caribbean is expected to contract by 9.4 percent this year, before making a 3.7 percent recovery next year, according to the IMF. In the Covid-19 landscape, the normal conditions for foreign investment have been largely upended. Although parts of the Caribbean have reopened to foreign travelers, travel remains difficult in much of Latin America, complicating deal-making and the conducting of full-scale due diligence. Moreover, Covid-19 has been more brutal to some sectors than others, such as commodities, retail, transportation and tourism. Lower commodity prices have hurt Argentina,

Brazil, Chile and Peru, while the collapse of tourism has been a major blow throughout the Caribbean. What will it take to revitalize foreign investment in Latin America and the Caribbean? While there are the usual foreign investor concerns over transparency and

“Travel remains difficult in much of Latin America, complicating deal-making and the conducting of full-scale due diligence.”

— Scott B. MacDonald

disclosure, better investment processes, and governance issues, one of the major hurdles for a return to 'normal' is the lack of any major economic locomotive to pull the global economy out of the downturn. All of the major economies are struggling on the economic front, and trade frictions continue to complicate foreign investment opportunities. One potential break for Latin America and the Caribbean is the disentanglement of the Chinese and U.S. economies, which could open up opportunities in creating new supply chains. The countries that have free trade agreements with the United States and the European Union (the top sources of FDI in the Americas) will have advantages in this, founded on clear and internationally accepted business rules, intellectual property rules and investment protection guarantees. That said, 2020 will be a tough year for attracting foreign investment to Latin America and the Caribbean; the path to a new normal will be highly challenging and will require changes in conditions beyond the region's control."

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