Foreign Direct Investment in developing countries -Risks and Guarantees-

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Abstract: FDI plays an active role in the financing of development in one hand, and technology transfer and strengthening the technical experience of countries , facilitate their integration into the world economy in another hand .While the attraction of these investments and the profitage of its benefits depends on the degree of political, legal, economic and social stability of the host country , the flows are related to the availability of a favorable investment climate to their activity and the existence of insurance coverage against various risks that may be encountered in developing countries. The aim of this study is to identify the various guarantees provided by the developing countries to protect foreign direct investment from non-commercial risks in order to determine the most effective, as well as the presentation of the experiences of some developing countries that have succeeded in attracting this type of investment in order to take advantage of them.

Keywords: insurance, foreign direct investment, developing countries, non-commercial risk.

Introduction:

Foreign investor takes decisions to invest in a particular country depending on the investment climate, which is affected by the nature of the relationship between the expected return from the investment projects and may be exposed to him these projects of different risks in this country, so the fear of foreign investor take the host nation for the actions of its projects had been compromised, stands at the forefront of impediments to attract and encourage foreign direct investment in developing countries.

In order to attract this investment all countries seek to remove those fears or reduce them, and to provide reassurance to foreign investors on the projects of non-commercial risks-because the commercial risks borne by the investor usually as one of the men, by searching for the means capable of protecting the investment risk which has different faces.

From this perspective; the problematic is in the following fundamental questions: What are the guarantees provided for the protection of foreign direct investment,

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which has faced in developing countries? What are their effectiveness in providing security required for this type of investment?

The importance of this research is in the effective role that foreign direct investment could play in the economies of developing countries if they were attracted by the investment climate appropriate provision and provide the necessary guarantees to protect him from the non-commercial risks that may be encountered, and that as an important source of finance and important means of exploitation of natural resources unexploited, as an effective means for the transfer of modern technology and involved in the development of methods and new methods of production and management, as well as local labor training and provide new opportunities for jobs. The benefits of foreign direct investment will contribute to solve the problems of developing countries, such as lack of sources of funding and unemployment, thus contribute to the achievement of the desired economic development in those countries.

The goal of this research is to identify the guarantees provided for the protection of foreign direct investment from non-commercial risks in developing countries, and evaluated in order to determine the most effective in the necessary provide security to attract this kind of investment and then take advantage of the offered benefits, in addition to display the experiences of some developing countries that have succeeded in attracting foreign direct investment by providing the necessary protection.

The research hypothesis is that guarantees play an active role in attracting foreign direct investment and encourage them through the reduction of non-commercial risks in developing countries.

In order to arrive at the answer of the research problem and to prove the validity or error hypothesis this study adopted descriptive analytical approach by highlighting the theoretical aspects of the subject, and the study of the experiences of some developing countries (Malaysia, Indonesia, Singapore), which succeeded in attracting foreign direct investment in order to take advantage of them .

To answer the problem and achieve the desired goals, this study has been divided into the following research themes:

Firstly, the risks faced by foreign direct investment in developing countries, secondly, the guarantees provided for the protection of foreign direct investment and thirdly, lessons learned from the experiences of some developing countries in attracting FDI.

1. Non-commercial risks facing FDI in developing countries:

In law and economics theory, risky event are generally divided into commercial, non-commercial and political risks. As for FDI, the most common commercial risk is the risk that the investment will not be profitable, and in relation to it the problems regarding the recovery of outstanding debts due to bankruptcy or liquidation of the debtor, or court settlement, but also the risk of the exchange rate change which may, depending on the situation, fall in the category of non-commercial risks too (Vladan S.Perišć et al, 2014). Therefore, commercial risks are not factor that could influence the degree of attractiveness of the environment for foreign investment because foreign contracting parties protect FDI against them. However, this does not hold true for non-commercial or political risks (Vladan S.Perišć et al, 2014).

Non-commercial risk results from the events occurring as a consequence of major force or some actions resulting from decisions of state organs of recipient country. Non-commercial risks contain: nationalization, confiscation, expropriation, contract non-performance, abandoning hard currency, war; armed conflicts, civil disturbance, risks related to repatriation and transfer of profit (Vladan S.Perišć et al, 2014).

This research can summarize the most important non-commercial risks that may be exposed to foreign direct investment in the host countries and their definitions as follows:

1.1 Nationalization :

the nationalization define as the action of the state for the transfer of ownership of the project or group of projects from private ownership to individuals or companies represented in the ownership of the nation state in order to achieve the interests of the group.

Nationalization definitely takes the most significant place among non-commercial risks. By its importance, nationalisation falls into a group of economic and political measures carried out by a state, and it is particularly dangerous if implemented without compensation. Through the nationalisation process, the property of a company in a branch of industry, or on a wider level, is changed from private ownership into state ownership to become a base for a new concept of economic development. Although being a measure whose occurrence is related to the establishment of a socialistic state, nationalisation returned into the international economic and political life through the neo-colonial struggle for national liberation of recent colonies in Africa and Asia in the 1960's and 1970's (Vladan S.Perišć et al, 2014).

Recently, although nationalization of foreign assets has become rare even in developing nations since the 1990s, such a possibility still exists (Haftel, 2006; Jensen, 2003; Slaughter, 2003). For example, Chávez nationalized the last privately owned oil reserve in Venezuela in 2007, heightening tension with other foreign investors, such as BP PLC, ConocoPhillips, Exxon Mobil Corp., Chevron Corp., France's Total SA and Norway's Statoil ASA (Pearson, 2007).

Although nationalization is subject to certain procedures in most countries, but it entails many negative effects on the host country's economy, accounting for refuge factor troublesome for foreign investors, which could lead to their escape towards another state, adding to invest in them, which is reflected negatively on the hosted economy.

1.2 Confiscation :

Confiscation is that "punishment of a person or persons and under the state seizes on all or some of the funds owned by the performance of these people without any compensation. The risk of expropriation was important in 1970’s when multinationals have found themselves facing a public review. Thus, their activities were nationalized or severely mastered. In particular, in the field of natural resources and other industries deemed strategic by governments of host countries. During this period, losses were primarily for pure confiscation and simple foreign assets (Oubeid Rahmouni , 2012).

1.3 Expropriation:

In the context of coercive state measures that act as a non-commercial risk on foreign investment, expropriation is also very significant. Expropriation is a state measure in the form of taking privately owned property for the purpose deemed to be for public interest. Taking of private property for public interest is always followed by just compensation, and the expropriator, i.e. the state, is responsible to pay the market value for the expropriated property to a foreign investor (Vladan S.Perišć et al, 2014).

1.4 Contract non-performance:

Non-performance of foreign investment contracts, as a decision by the state organs of the recipient country, is manifested as non-recognition of the contract, its annulment, or refusal to perform under the contract as a whole or some of its parts. Classification of this risk as a non-commercial one is based on the presumption that the contracted parties in foreign investment contracts are not equal. This presumption starts from the principle of a sovereign government on the territory of the capital-receiving country, where a state is a carrier of its emporium. In modern international economic relations, in which a country acts as a contracting party, the country is treated as a contracting party with equal authority and responsibility and as a carrier of its gentium, so this type of risk has more attributes of commercial than political risk. Certainly, this statement is true if a recipient country has the status of a contracting party in foreign investment agreements. If not, the measures of the state authorities that would affect the performance of the foreign investment contract, in which the recipient country acts as a carrier of sovereign economic empowerment, it would be the measures against non-commercial risk on foreign investment (Vladan S.Perišć et al, 2014).

1.5 Non-introduction of a convertible currency :

It is a typical form of non-commercial risk on foreign investment. Convertibility of a currency is defined as a feature of the currency to be exchangeable to other currencies without limitation at the valid exchange rates. When a currency becomes convertible, it expresses that feature in all ongoing transactions with foreign countries through its substitutability with all world currencies. As an economic and financial category, convertibility is not in a sole decision-making competence of the national central bank. It also depends on meeting certain economic requirements both on national and international level.

Behind a convertible currency of a state should stand a stable, strong and productive economy, and its trade, i.e. its balance of payments should not be negative. Even if there is some balance-of-payment deficit, it should not be long-term, and especially not high, because these are also the parameters of political instability and uncompetitive economy. International component of convertibility implies international recognition of the said currency in payment operations, which is its ability to exchange for some other also internationally recognized currency. Non-introduction of a convertible national currency would, thus, be a measure of a bank of issue in the recipient country that would have an adverse effect on the existing foreign investment, but also on the overall economic and political environment of the recipient country (Vladan S.Perišć et al, 2014).

1.6 The risk related to profit repatriation and transfer:

This type of risk is created by the introduction of restrictive state measures by the capital-receiving country. With these measures the importing country prevents or impedes free repatriation of a foreign investor's profit into the capital-exporting country and retransfer of the invested assets (UNCTAD, 2006).

1.7 Radical non-commercial risks:

The most radical non-commercial risks include armed rebellion, civil disturbance that may result in war, and war itself. Civil disturbance that grows into war and armed rebellion are the results of radical solving interior social differences and conflicts between social groups that fight to come to power using force. In both cases they lead to an inadequate political, security, and, consequently, economic environment for foreign investment. The same consequences, yet of much wider scope, are produced by war as a way of solving international disputes between two or more countries through the armed conflict. War, as the most violent form of settling disputes between two or more countries, and how to overcome it is stipulated by the Charter and other fundamental documents of the United Nations, that have established a system of collective security in the world (Vladan S.Perišć et al, 2014).

2. Guarantees for the protection of FDI from non-commercial risks:

After identifying non-commercial risks that might be exposed to FDI in the host countries, this research will expose the most important guarantees offered by these countries in order to attract and encourage investment. Given that FDI are beneficial both for the exporting and importing countries, the system of protection against non-commercial risks is in the interest of the contracting parties and also the international community as a whole. Hence, the system of legal protection of FDI is very complex and includes compatible measures for the protection of investments by the capital-exporting countries, capital-importing countries, and international community through global or regional international economic and financial organizations (Oubeid Rahmouni ,2012).

2.1 Objective guarantees:

The pledge is in the host country where the protection of foreign direct investment, and that the text in the legislation to protect these investments funds and profits from non-commercial risks of capital, and to provide fair compensation in the event of exposure to these risks. Despite the availability of these guarantees in most host countries, but it cannot be achieved with the full confidence of the investors, because of the possibility that the text inconsistent in some countries with constitutional provisions give the state the right to nationalization and confiscation under the pretext of public interest and in exchange for compensation, even in the absence of this contrast the right of the state to amend its legislation remains valid at any time and under any circumstances (Kathryn Gordon, 2008).

To limit the impact on foreign investors, some states provide greater and possible security for them to emphasize reminded through the conclusion of treaties with the mother countries to these investors.

2.2 Procedural guarantees:

Procedural guarantees are those guarantees under which allow the foreign investor to resort to national or international law for protecting its investments through the neutral judicial body to consider the conflicts that arise between the foreign investor and the host state (Oubeid Rahmouni, 2012).

however, the justification that recourse to ordinary courts in the host country may result in bias of the court to its state at the foreign investor's account, which presents its investments to various risks, and despite the fact that the mother country may sometimes intervene to protect its investors' investments. According to the theory of diplomatic protection, which gives the right of the state to claim the rights of its citizens, this type of protection is affected by the political relations between the mother country and the host country, which affects the strength and effectiveness of this protection (Kathryn Gordon, 2008). Therefore, this research found that investors prefer to enter into a special agreement with the host country for their investments, and include provision for the referral of any dispute that may arise with her to a private arbitration bodies that are identified in the Convention (Kathryn Gordon, 2008).

3. The role of insurance in reducing the risks faced by FDI:

FDI leads an active role in the development of the host country's economy on the one hand, it also offers many advantages for the mother country on the other hand, so it has turned to search for ways to protect this investment of the various risks that may face, and perhaps the most important of these means is the insurance of FDI by a national or foreign insurance organization (Kathryn Gordon, 2008).

3.1 Insurance FDI by national insurance organizations:

To insure foreign investment; national systems is divided into two parts: firstly, the preferential foreign investment insurance system, and secondly, the non- preferential insurance foreign investment system.

3.1.1 Insurance system of preferential on foreign investment:

One of the most striking examples of this system is the insurance investment in the United States, which was created under the Economic Cooperation in 1948. The law system encouraged foreign investment in Western European countries to rebuild what World War II was destroyed. But this was limited at first to secure the American private investment in these countries, the risk of preventing the currency conversion, but it underwent after that for several amendments to the geographic scope, and the covered risks. The summarized information related to this system shown in the following table (Kathryn Gordon, 2008).:

Table (1): "The preferential Foreign Investment insurance system"

Risks covered by the contract	1. ***Insurance of all risks*** except for the risk of fraud and mismanagement. 2. ***Insurance of some of the risks:*** the risk of expropriation, the risk of the inability to transfer cash and the risk of social instability. Risks covered by the contract.
Insurance conditions	***1. Conditions to be met in the host country:*** a contract with the mother of the state investment includes several provisions are: **A.** The need to consult the two countries(host and exporting countries) about to be insured investments. **B.** The consent of the host country on investment to be secured. **C.** Originally the state resolved to invest in investor replace all rights related to investment at risk insured and check them out after the payment of compensation to him. **D.** Treatment of national treatment of foreign investors and MFN treatment with respect to compensation for losses resulting from wars and internal disturbances. **E.** Resolving disputes relating to this investment between the two countries through negotiations or arbitration. 1. ***Conditions to be met in investments:*** **A. Valid Insurance of all the risks:** these include investment-oriented loans for housing projects, and loans between lending institutions, and external investment in the range of 75% of its value. It also requires that these investments are new, and are of great importance in the development of the host country's economy. B. **Valid Insurance of specific risks:** is the new investments only, and not intended to be an investor has started the implementation of the investment project before the conclusion of the insurance contract. ***3. Conditions to be provided in the investor:*** be a citizen of capital-exporting country, and to be his company had been established under the laws of the State of export of capital, and not be burdened with debt, or subject to foreign influence, and to be a foreign venture owned entirely by the investor party or investors apply to them a former characterizations.

4.1.2 The non- preferential insurance foreign investment system:

One of the most striking examples of this system is the insurance system to invest in Japan, which is organized by the Act of 1956, which aims to encourage foreign investment through the provision of Japanese investments in all countries of the world. the following table can summarize the information related to this system (Smitha Francis, P9-13).

Table (2): "The non-preferential Foreign Investment insurance system"

Risks covered by the contract	***1. Insurance of all the risks:*** **A.** The risk of expropriation in the public interest or nationalization. **B.** The risk of social instability (the expiry of the investment or stops for six months because of the danger). **C.** Actions taken by the host state investment and affecting property rights or patent rights or the rights of search for minerals needed for investment activity. **D.** The risk of the inability to convert investment returns for two years or more because of legal restrictions imposed on cash after the conclusion of the insurance contract, or because of social instability, and the freezing of return or confiscated.
Insurance conditions	***1. Conditions to be met in investments:*** Insurance under this system is limited to capital and returns only. ***2. conditions to be provided in the investor:*** Required in the investor whether a natural person or legal entity that has the nationality of capital-exporting country.
The effects of the insurance contract	***1. Investor commitments:*** The investor is committed to: **A.** The performance of the agreed installments. **B.** Provide all information relating to investment of the insured to the insurance body and communicating any changes to it. **C.** Inform the Insurance Authority at check them insured risks, and submit a request for compensation attached documents and documents to ensure that the right to obtain compensation. ***D.*** Replacement of the Insurance Commission replaced in all his rights related to investment in the face of the host country. ***2. Investor rights:*** When you check the danger of it insured, worth investor compensation, which does not exceed the value of 75% of the value of the loss suffered by it, where the loss is determined in two phases: **A. Phase I:** It is that of determining the less the following values: - The original investment of the insured value. - The liquidation value of the investment after the last accounting period preceding the occurrence of the insured risk it. **B. Phase II:** It is the highest of the following two values obtained by the value of the first phase of discount: - Half the profits actually received. - Half-expected profits for the moment the conclusion of the insurance contract. The amount obtained after the previous two phases value of the loss that the Insurance

	Authority is committed to compensate the investor by around 75%.

4.2 Insurance on foreign investment by international insurance organizations: The aim of encouraging foreign private direct investments and protecting them of risk that you may encounter in the host countries has been created by international bodies such as the International Investment Guarantee Agency, which was established under the international convention prepared by the World Bank, and entered into force on 21st April 1988. This agency has a separate legal personality to encourage the flow of capital and technology for productive purposes to developing countries in order to grow and develop it. The following table summarizes the most important information relating to its system of insurance (MIGA, 1985/2010):

Table 3: "Insurance system on foreign investment by the International Agency for Investment Guarantee"

Risks covered by the contract	***Insurance All Risks:*** of: the risk of expropriation, the risk of disability for cash transfer, the risk of social instability, and the risk of a breach of contract (not to allow investors to resort to a judicial or arbitral tribunal to adjudicate his claim about the veto of the contract or its breach, or not this enables the body to adjudicate the dispute within a reasonable period, whether or not the possibility of implementing the decision of this body). The agency can also secure other non-commercial risks based on double request of the investor and the host country and the consent of the IAEA Board of Governors for the majority.
Insurance conditions	***1. Conditions to be met in investments:*** The agency provides direct and indirect investments Alognih, and require that the latter is available in the following conditions: **A.** Be new investments, however, can secure the Agency aimed at the development of an investment or reinvestment of proceeds convertible into overseas investments. **B.** These investments contribute to economic and social development in the host country. **C.** These investments are in line with the laws and regulations of the host country and its development goals. ***2.Conditions to be provided in the investor:*** distinguish between the investor and the agency as to whether an individual or a company, as required in the first case to be that individual citizens of one of the Member States with the exception of the host country. And require that in the second case to be the company's main administration center in one of the Member States with the exception of the host country. There is no requirement that the company is private, it can secure a public company or a hybrid if they operate on a commercial basis.
	1. Investor commitments: The investor is committed to: **A.** The performance of the agreed installments.

	B. Provide all information relating to investment of the insured to the insurance body and communicating any changes to it. **C.** Inform the Insurance Authority at check them insured risks, and submit a request for compensation attached documents and documents to ensure that the right to obtain compensation. **D.** Replacement of the Insurance Commission replaced in all his rights related to investment in the face of the host country. ***2. Investor rights:*** When you check the danger of it insured, worth investor compensation, which is determined according to the value of the insured risk it, and notes in this regard that the agency does not cover all the losses incurred by the investor.

4. Comparing the provided safeguards for the protection of foreign direct investment:

After reviewing the various guarantees provided for the protection of foreign direct investment from non-commercial risks that may be encountered in developing countries draw two conclusions in two basic.

- When comparing the substantive procedural safeguards and guarantees and insurance, we can find that the objective guarantees do not provide full legal protection for foreign direct investment; because the host countries have the real right in modifying their domestic laws, including the Investment Law, that they could lead to a reduction of the guarantees contained in it and add new burdens on this investment. Meanwhile, the procedural safeguards do not prevent the host country to investing in contravention, for example, if you take over the ownership of the investment project without providing compensation or to prevent the conversion of origin and investment returns, despite its pledge to the contrary. Thus, the host country has international legal responsibility if it received those assurances in an international agreement, or it has to pay compensation if it received such assurances in the investment contract between an investor. Thus, this research reached that there is no absolute guarantee of foreign direct investment in the light of the substantive and procedural safeguards. Moreover, it found that the insurance on foreign direct investment is the best legal means to protect it through the security provided by the insurance contract, whether issued by the national or international insurance companies, because this guarantee whereby a commitment to a national or international body to compensate the contractor investor for damages caused as a result of verification risks covered by the contract.
- When comparing insurance systems by national security agencies with insurance systems by international security agencies, this study find that the general foreign investment insurance with international bodies insurance provides benefits including:

• Mitigation of the political nature to secure the investment by the international body, because most of the host developing countries reluctant to accept insurance system investment by the national body of the mother state, and the others refuse to enter into bilateral agreements with the mother country on the application of its National Insurance on investment because they find the infringement of legal sovereignty in the treatment of incoming investments.

- the International Commission of security includes several exporting countries and receiving investment which is governed by a single agreement, this means that they operate in accordance with a uniform law with all investors and all the host countries, and that unlike national insurance bodies, which have to conclude bilateral agreements with many of the host countries, legal provisions vary according to the different circumstances of each of these countries.
- The international body distributes risks in addition to the administrative expenses of the Authority on all Member States, and thus each member state bear a part of the losses when the checked risks insured them with a portion of administrative expenses of the body, and it is better than that borne by each country on its own losses at check insured, including risk In addition to the administrative expenses of the Authority and national affiliates. That is better than that borne by each country on its own losses at check risk insured to add to the administrative expenses of the Authority and national affiliates.

4. Lessons from the experiences of some developing countries in FDI attraction and protection:

This element will show experiences of some developing countries that have succeeded in FDI attraction:

4.1 Malaysian experience:

4.1.1 Encouraging and stimulating foreign direct investment

The encouraging and stimulating of foreign direct investment in Malaysia can be explained by the recovery of the manufacturing sector, starting from the mid-eighties of the last century for larging private foreign direct investment flows after the adoption of the Investment Promotion Act of 1984, as the law made many incentives and guarantees the most important of which can be summarized as follows:

- Allowing foreigners to acquire 100% ownership rights, and that when they export 80% or more of the products of these companies.
- Allowing companies that export between 51% and 79% of its products by a corresponding foreign property rights of those companies.
- Allowing companies that export between 20% and 50% of its products to own up to 51% of foreign ownership rights to those companies.
- Allowing companies that can export only 20% or less of their products to own a maximum of 30% of foreign ownership rights to that company.
- This is in addition to the establishment of the Malaysian government signed more than 22 agreements to ensure investment with various countries included the protection of foreign companies from compulsory nationalization, and the possibility of resorting multinational companies to the international system of dispute resolution for legal compensation, and free transfer of profits and revenues and capital abroad. In order to facilitate these procedures the Malaysian authorities established the Malaysian Industrial Development

Authority to be the only center that deals with requests from foreign investors (UNCTAD, 2003).

4.1.2 Results incentives and guarantees provided in attracting FDI

Incentives and guarantees provided to encourage foreign direct investment have resulted increased inflows from an average of 79% annually in the manufacturing sector, as well as, it reached about 59% of the total investment in the manufacturing sector during the period 1986-1990.

Foreign direct investment has also led to a strong push for industrial performance in Malaysia through the most efficient use of scarce resources during the process of infrastructure development, and the creation of an industrial base depends on local resources that Malaysia is famous for its rubbery.

As FDI has positive effects on local institutions and industries through the emergence of local companies that packing and shipping for electronics services and various activities in the export areas, as the workforce benefited through the creation of positions of many jobs where the unemployment rate fell to a record high compared to developed countries (UNCTAD, 2003).

4.2 Indonesian Experience:

4.2.1 Encouraging and stimulating foreign direct investment

Indonesia has taken several measures to improve the investment climate in order to attract foreign direct investment, which can be summarized in the following points (Ishida.M, 2012):

- The establishment of investment promotion centers, namely: Indonesian office to encourage investment and development projects, which provides all the information on investment opportunities and investment climate in addition to solving problems of investors, and the Regional Office for the organization of investment interpreter for the issuance of all permits and licenses to investors.
- Cooperation with international institutions to encourage investment: in order to promote available investment opportunities.
- international conventions for the protection of investment; including:
    - The signing of bilateral agreements for the avoidance of double taxation with 50 countries.
    - To ensure the signing of a bilateral investment with 51 countries.
    - The signing of agreements to ensure the investment at the regional level with ASEAN countries in addition to the Organization of Islamic Cooperation countries.

4.2.2 Results incentives and guarantees provided in attracting FDI

Incentives and guarantees provided to encourage foreign direct investment have resulted increased inflows to Indonesia from $ 17 million in 1995 to $ 23 million in

2002. The foreign direct investment contributed in the development of industrial exports, and in reducing unemployment (Michaele & Christian, 2008).

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4.3 Singapore's experience in attracting and encouraging foreign direct investment:

4.3.1 Encouraging, stimulating and protecting foreign direct investment

Singapore has taken several measures to improve the investment climate in order to attract foreign direct investment, which can be summarized in the following points (*Dirk*, 2001):

- The establishment of investment promotion centers, namely: Economic Development Authority and Singapore's Trade Development Council.
- International cooperation in the field of investment guarantee: the signing of a number of investments with neighboring countries in order to protect this type of investment agreements.
- Economic development activity programs including: manufacturing program, this aims to develop the industrial sector and to reach a rate of 7% of industrial growth.

4.3.2 Results incentives and guarantees provided in attracting FDI

Incentives and guarantees provided to encourage foreign direct investment have resulted increased inflows to Singapore from 7.60 billion dollars in 1998 to 10.50 billion dollars in 2001. As foreign investment contributed to the optimal utilization of local resources as well as development of industrial exports, and reduced rates unemployment (Dirk, 2001).

Conclusion:

Foreign direct investment is facing a lot of non-commercial risks in developing countries, such as nationalization, expropriation, seizure, the imposition of receivership, unrest and war, impose restrictions on the transfer of capital and that are faced by the substantive safeguards and procedural guarantees and insurance.

The insurance of foreign direct investment is the best legal means to protect it through the security provided by the insurance contract, whether issued by the national or international insurance companies, because this guarantee whereby a commitment to a national or international body to compensate the contractor investor for damages caused as a result of verification risks covered by the contract. And yet this study found that it has not received much attention by developing countries.

The provision of guarantees to protect foreign direct investment is one of the important factors in attracting and encouraging this type of investment, and then there is a positive relationship between the availability of the necessary guarantees for the protection of the foreign direct investment from non-commercial risks that may be encountered in a particular state and the size of the flows to this state. Thus, this is confirmed by the experiences of some developing countries (Malaysia, Indonesia, and Singapore), which has attracted significant inflows of foreign direct investments by giving them a number of tax incentives in addition to providing guarantees to protect the family from various non-commercial risks.

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