

Mr. LANDRUM. Without objection, it is so ordered. (See p. 705.)

Mr. SCOTT. Under the regulations, as amended, transfers of capital to schedule A and B countries for 1968 and future years will be limited to specified percentages, depending upon the schedule of countries involved, of the average of direct investment (consisting of transfers of capital and reinvestment of earnings) during the base period, 1965-66. FDIR section 1000.504(a)(1) and (2). There is a moratorium on transfers of capital to schedule C countries (Western Europe, South Africa, and the Sino-Soviet countries) and reinvestment is limited to a percentage of the average direct investment during the base period. FDIR section 1000.504(a)(3).

Under FDIR section 1000.202, each direct investor is required to transfer to the United States in varying amounts depending upon the schedule of countries involved:

* * * not less than once a year, * * * to an account owned by such direct investor denominated in U.S. dollars at a domestic bank, an amount representing earnings from affiliated foreign nationals in such countries * * *

For example, the amount which must be repatriated from schedule C countries is the greater of: (1) the same percentage of total earnings from schedule C affiliates as was repatriated during the base period 1964 through 1966, or (2) any earnings of schedule C affiliates in excess of 35 percent of the average of direct investment in schedule C countries made during 1965 and 1966.

Some of the general problems posed by the regulations were set forth in a letter from the council to Secretary Trowbridge dated January 15, 1968, annexed hereto as attachment A. While the Commerce Department has attempted to deal with some of the problems set forth therein, such as a direct investor's guarantee of its affiliated foreign national's indebtedness, the use of the base periods set forth in FDIR sections 1000.202 and 1000.504 still present serious problems and create inequities for many corporations.

To the extent that a direct investor complied with the "Voluntary Program," for example, where foreign borrowings were utilized to maintain high levels of repatriations, sometimes in excess of a given year's earnings, such investor is being penalized under FDIR section 1000.202 because his required levels of repatriation under the mandatory program have been increased thereby. Such required levels may jeopardize adequate provision for current or normal growth needs.

Similar inequities result under FDIR section 1000.504, where in compliance with the "Voluntary Program," the direct investor curtailed or eliminated his otherwise normal transfers of capital abroad. The contribution made to the balance of payments by direct investors under the "Voluntary Program" should be recognized and not used now as the basis of penalizing them.

(1) Extraordinary contributions to the balance of payments

A direct investor, under certain circumstances, may be able to liquidate and repatriate a portion of his foreign investment over and above the mandatory repatriations of earnings required under FDIR section 1000.202. The acceleration of such repatriations should be encouraged. One method could be to amend the foreign direct investment regulations to provide that in any given year an amount repatriated in excess of the requirements of FDIR section 1000.202 would be