

to affiliated foreign nationals. Provision, therefore, should be made for some growth in outstandings on open account, for example, by allowing such outstandings to grow commensurately with the rate of increase in the value of exports.

Clarification is needed also as to whether advances on open account between affiliated foreign nationals are excluded under Section 1000.312(d).

In addition, the regulations present serious matters of concern relating to taxation. These aspects are under study and our views with respect thereto will be communicated as promptly as possible to both the Department of Commerce and Treasury.

We respectfully request that the views presented herein be considered by the Department of Commerce in terms of the regulations, as now issued, or as they may be amended, and also in the development of the reporting forms, CDFDI-101, Base Period Report and CDFDI-102, Quarterly Report, as required under Subpart F thereof.

We would welcome the opportunity to discuss further with you and your staff any of the matters raised in this letter.

Sincerely yours,

ROBERT M. NORRIS,
President.

(The supplemental memorandum referred to, subsequently received by the committee, follows:)

SUPPLEMENTAL MEMORANDUM OF THE NATIONAL FOREIGN TRADE COUNCIL, INC.

This memorandum is being filed by the National Foreign Trade Council pursuant to permission granted during the Council's testimony at Hearings before the House Ways and Means Committee on February 22, 1968 and is addressed solely to certain problems resulting from the operation of the Foreign Direct Investment Regulation where relief is urgently needed.

LONG-TERM EFFECTS OF MANDATORY REPATRIATION REQUIREMENTS

The Council is concerned that the Administration's short term measures embodied in the Foreign Direct Investment Regulations to improve the U.S. balance of payments situation may work great hardship on the ability of many U.S. corporations, especially those who have contributed to the "Voluntary Program", to continue to repatriate funds to the U.S. at historically high levels. This is particularly true of operations carried on in Schedule C countries¹ and can be shown by simple example.

Assume that Corporation A, a wholly owned German subsidiary of a U.S. corporation and its only overseas affiliate, had \$1,000,000 average earnings during the base period. In compliance with the "Voluntary Program", Corporation A declared dividends to the parent at the rate of 50 percent per year during the base period and the parent made no transfers of capital during the base period. The parent's average direct investment during such period was \$500,000, the average amount of reinvested earnings. Assume further that Corporation A earned \$1,000,000 in 1968. Under these facts, the direct investor is required to repatriate \$825,000 or 82½ percent of the current earnings of the German subsidiary.

The inconsistency of penalizing a direct investor for compliance with the "Voluntary Program" is graphically illustrated in the following chart which contrasts the base period experience of two other subsidiaries, B and C, also incorporated in Germany, each of which is wholly owned by and is the sole foreign affiliate of other U.S. corporations. Both B and C earn \$1,000,000 in 1968 and both corporations retain all of their earnings during the base periods. In addition, C's parent transfers capital from the U.S. to subsidiary C in the amount of \$1,000,000 each year.

¹ As set forth in the Council's statement of February 22nd to the House Ways and Means Committee, FDIR section 1000.504(a)(3) provides for a moratorium on transfers of capital to Schedule C countries, and limits reinvestment of earnings to 35 percent of the average direct investment during the base period 1965-1966. Under FDIR section 1000.202(c), 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.