

	Corporation		
	A	B	C
Base period averages:			
(a) Earnings.....	\$1,000,000	\$1,000,000	\$1,000,000
(b) Dividends.....	500,000	0	0
(c) Retained earnings.....	500,000	1,000,000	1,000,000
(d) Capital transfers.....	0	0	1,000,000
1968 earnings.....	1,000,000	1,000,000	1,000,000
Direct investment, base (c) plus (d): 35 percent of (c) plus (d).....	-175,000	-350,000	-700,000
Required dividend.....	825,000	650,000	300,000
Mandatory repatriation rate (percent).....	82.5	65	30

In the case of B and C, the required rates of repatriation are reduced to 65 percent and 30 percent, respectively. However, the U.S. parent of A, as a result of its high base period dividend distribution experience and restraint in transferring capital from the U.S. in compliance with the "Voluntary Program", is now required under the mandatory program to repatriate current and future earnings at the rate of 82.5 percent—a rate not conducive to the continued economic health of A.

Compliance with the "Voluntary Program" results in a further hardship under the Commerce Department Regulations where a U.S. corporation borrowed abroad from unrelated third parties and loaned the proceeds of such borrowings to its foreign affiliate to provide capital for normal expansion of plant and equipment.

Assume that German subsidiary D whose base period and 1968 earnings experience is similar in all respects to that of subsidiary C in the above example except that its U.S. parent borrowed \$1,000,000 long term from unrelated third parties abroad in each year of the base period years and loaned such amounts to subsidiary D in order to provide necessary capital for plant expansion. Since long term borrowings abroad by the direct investor from unrelated third parties must be deducted from the direct investment base under FDIR section 1000.504(b), the direct investment base under the second repatriation test remains at \$1,000,000. Unlike subsidiary C, subsidiary D is therefore required to repatriate \$650,000 of its 1968 earnings of \$1,000,000.

Further, the direct investor incurs an additional penalty when these borrowings are repaid in future years. Such debt repayments to unrelated third parties must be replaced with additional repatriations over and above the amounts required under the formulas provided for in the regulations.

The arbitrary repatriation formulas utilized in the Foreign Direct Investment Regulations will severely affect those mature U.S. companies, who under the "Voluntary Program", repatriated earnings to the U.S. at consistently high levels, and who either refrained from transferring capital from the U.S. or obtained necessary foreign capital requirements through overseas borrowings from unrelated parties.

Under the present regulations, foreign subsidiaries of such U.S. corporations will find it increasingly difficult to compete with foreign corporations and maintain existing operations in a healthy economic state. High repatriation requirements, particularly in Western Europe, will make it difficult to maintain existing levels of operations let alone to finance normal growth through internally generated funds. Moreover, attempts to repay existing borrowings as well as to obtain needed capital funds through new borrowings abroad from foreign capital markets will be thwarted by such high mandatory repatriations. Certainly, such a situation is not in the long term interests of either government or industry.

Accordingly, in order to preserve the ability of foreign affiliates of U.S. corporations to continue to make substantial net contributions to the U.S. balance of payments,¹ maximum rates should be established for mandatory repatriations

¹ As set forth by Howard S. Piquet, Senior Specialist in International Economics, Legislative Reference Service of the Library of Congress, the outflow of funds, based upon Department of Commerce statistics, for direct investment between 1954 and 1966 was approximately \$1.9 billion a year. Returns on existing investment, in the form of dividends, branch profits, interest, etc., averaged \$3.2 billion a year. The outflow of funds for new direct investment over the 13-year period, expressed as cumulative totals, amounted to \$24.8 billion, while earnings on outstanding direct foreign investments over the same period amounted to \$41.7 billion. Piquet, *Restricting Private Direct Investment Abroad to Narrow the Balance-of-Payments Deficit*, 114 Cong. Rec. E468 (daily ed. Feb. 5, 1968).