

of current year's earnings under the Foreign Direct Investment Regulations. In Schedule C countries, the maximum rate of repatriation of current year's earnings should, in no event, exceed 65 percent of current year's earnings.

EXPANSION OF U.S. EXPORTS

The President's Message to the Nation on the Balance of Payments outlined a permanent plan to increase U.S. exports. Consistent therewith, the Council, in its basic statement of February 22nd to the House Ways and Means Committee, suggested certain income tax measures which would serve to increase U.S. exports, thereby contributing to the U.S. balance of payments position.

Department of Commerce figures indicate that once a manufacturing or distributing affiliate has been established abroad, most of the parent company exports to the country wherein the affiliate is located are directed to or through such affiliate. Moreover, Department of Commerce statistics show that exports to foreign affiliates amounted to $\frac{1}{3}$ of total nonagricultural U.S. exports for 1964. See Pizer and Cutler, *U.S. Exports to Foreign Affiliates of U.S. Firms*, Survey of Current Business, December 1965, 12. However, FDIR section 1000.312(d) provides that a net increase in advances upon open account to affiliated foreign nationals will constitute a transfer of capital. Therefore, since transfers of capital are prohibited in Schedule C countries and otherwise limited in Schedule A and B countries, FDIR section 1000.312(d) effectively inhibits future growth of a substantial segment of the U.S. export market.

A dollar of exports contributes to our balance of payments to the same extent as does a dollar repatriated under the mandatory program and can be obtained without the disruption of existing overseas operations resulting from the mandatory program. It is therefore inconsistent with long range objectives to penalize exports by inhibiting this growth by a regulation which provides that net increase in advances on open account constitute transfers of capital.

The Foreign Direct Investment Regulations should be coordinated with the Administration's long range program to increase U.S. exports. One solution would be to exclude increases in advances on open account under FDIR section 1000.504(a) rising from export sales by the direct investor to affiliated foreign nationals in the ordinary course of business pursuant to normal trade terms where the U.S. exporter is paid within six months.¹ Another solution would be to provide that capital transfers resulting from increases in export sales to affiliated foreign nationals pursuant to normal credit terms will be disregarded to the extent attributable to a normal increase in such sales.

TREATMENT OF BRANCH OPERATIONS

The reporting of branch operations as required under the Foreign Direct Investment Regulations, and as amplified by the instructions accompanying Form FDI-101, released on February 19, 1968, presents many technical problems and requires further study by the Department of Commerce.

Section 1000.504(a) (3) of the Foreign Direct Investment Regulations imposes a moratorium on transfers of capital to Schedule C countries. Under Form FDI-101, retained earnings of branches of both foreign subsidiaries and U.S. corporations are treated as a transfer of capital from the home office to the branch. A serious question therefore arises whether a branch in a Schedule C country may retain any of its earnings within the permissible levels of direct investment, or whether it must remit all of such earnings in view of the proscriptions of FDIR section 1000.504(a) (3). Again the Council reiterates that an operation that cannot retain any of its profits cannot long endure.

In addition, the reporting of branch profits of a foreign corporation is both economically unsound and mechanically incorrect. Under the instructions of Form FDI-101, branch earnings are excluded for purposes of the calculation of both the direct investment bases and the repatriation ratios and are merely reported as an information item. Thus, the results of both calculations are distorted.

Historically, foreign branch earnings of U.S. corporations have always been attributed by the Department of Commerce to the U.S., the place of incorpora-

¹ The instructions accompanying form FDI-101 released on February 19, 1968, state that arm's length open account sales between affiliated foreign nationals in different schedules need not be reported as a transfer of capital by the direct investor if such credit is repaid within 12 months.