on repatriation borrowed for that purpose. Under Section 1000.202 a corporation is required to remit at the same percentage as it remitted under the "voluntary program" when that percentage is higher than the prescribed percentage under the mandatory program, whereas a company that did not remit under the "voluntary program" is limited to the percentage prescribed under the mandatory program.

The effect of these provisions, together with the moratorium on new capital inflow into Schedule C countries, will be to force foreign affiliates into further borrowing. Their capacity to borrow, however, will be seriously impaired by Section 1000.312 (e) (1) and (2) of the regulations which provides that any satisfaction of an obligation of a direct investor incurred as a result of a guarantee of an obligation of an affiliated foreign nation, or the assumption of a liability of an affiliated foreign national, is deemed to constitute a transfer of capital. Such transfers are prohibited to Schedule C countries and are otherwise limited for countries in Schedules A and B. Thus, since a U.S. parent would no longer be able to guarantee the loans of its affiliated foreign nationals in continental Europe, these affiliates will be forced to obtain their short and medium capital requirements in the increasingly expensive long-term money markets. this will diminish future earnings available for repatriation to the United States.

These provisions reduce both the capacity of foreign affiliates to repay loans and to secure further borrowings, thus weakening their competitive position and closing the door for required capital to meet their normal growth needs. Accordingly consideration should be given to permitting the net long-term portion of borrowings expended in direct investment to be included in calculating the investment base. In addition, an amendment of the regulations is urgently required to permit U.S. parent companies to perform under their guarantees of the loans of foreign affiliates and to offer guarantees of the loans of foreign affiliates that would be acceptable to foreign lenders. We welcome indications that clarification on this point may shortly be expected.

We take cognizance of the fact that there was an amendment to the regulations on January 23 and a general authorization issued which does permit the entering into and performance under guarantees in accordance with that general authorization. Of course, that is a welcome step to overcoming some of the problems.

Turning now to the next item:

2. PRIOR CONTRACTUAL COMMITMENTS

The regulations present serious problems with respect to work in process and commitments under investment programs which were entered into prior to January 1, 1968. Such commitments, for example, can involve purchase of additional shares of capital, the requirement to supply industrial property, services, equipment, raw material, parts and components. Basically the question is how such commitments and contractual obligations can be honored, particularly in respect of Schedule C countries in view of the limitations imposed by the moratorium on new investments, the limit of 35% of earnings for reinvestment, the requirement for repatriation of earnings and of short-term assets, and the prohibition against satisfaction of an obligation of a U.S. parent company as a result of a guarantee.

The only relief for the foregoing problems afforded by the regulations is by exemption on a case-by-case basis. Is this administratively feasible? Any delays and uncertainties will unduly penalize and disrupt companies in the conduct of international business. Could not some of these issues better be met on a broad policy basis either by revision of the regulations or by issuance of instructions under which companies would have assurance that, under specified conditions or limits, exemptions would be granted to permit carrying out prior investment commitments.

3. REPATRIATION OF DIRECT INVESTMENT EARNINGS

In addition to the adverse effects of the repatriation requirements referred to above, U.S. direct investors are confronted with problems under the following situations:

(a) A direct investor is defined under Section 1000.304 as a U.S. person who owns or acquires 10 percent or more of the voting power or a right to 10 percent