or more of the earnings and profits of any foreign national and is subject to the mandatory requirements of the regulations. It is impossible for a U.S. direct investor, owing as little as 10 percent of the stock in a foreign corporation where the remaining stockholders are foreign nationals, to repatriate funds against the will of the foreign nationals. In this connection it should be pointed out that the ability to average out repatriations within a particular schedule of countries will prove of little benefit to U.S. corporations with limited operations overseas or within a given schedule of countries.

(b) A U.S. investor having a majority position in a foreign national who is required to and does repatriate the amounts prescribed in Section 1000.202 of the regulations may be liable to a stockholder's suit by an aggrieved minority shareholder. This problem is aggravated where the U.S. investor can not repatriate all or part of the earnings of a wholly owned foreign subsidiary and, in an attempt to average, repatriates funds from an affiliated company within the same schedule of countries to the detriment of the minority interests.

(c) Many countries prescribe partial or complete restrictions on any remittance from such countries. For example, in Finland dividends may be remitted currently only to the extent of 25 percent of capital stock with the balance being remitted over a 5-year period. In Brazil, there is an excess remittance tax ranging upward to 60 percent of any remittance exceeding a prescribed limit. Other countries prohibit repatriation of current year's earnings until some time after the close of the year in which earned, while other countries may block the repatriation of funds where capital has been impaired in prior years but where the company does have a profit in the current year.

In these situations, the regulations should also provide relief from the mandatory repatriation formulas. Here, too, it should be pointed out that averaging within a particular schedule of countries will, in many instances, prove of little benefit to U. S. corporations.

#### 4. OPEN ACCOUNT SALES TO AFFILITATED FOREIGN NATIONALS

Expansion of U.S. exports is a fundamental objective of the U.S. program for strengthening the balance of payments. U.S. exports to foreign affiliates constitute a substantial percentage of our total exports and have increased significantly in recent years. However, Section 1000.312(d) provides that a net increase in advances upon open account to an affiliated foreign national constitutes a transfer of capital.

Limitations on net increases in open account as governed by the limitations on transfers of capital under the regulations, will inhibit the growth of U.S. exports 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).

Our communication was acknowledged by the Secretary of Commerce with appreciation for its clear statement of the problems raised by the regulations, advising that it would be carefully studied and considered by the Department in the management of the new program.

As you have already seen, it has done this with respect to guarantees. We again emphasize that the recurring deficits of the U.S. balance-of-payments position cannot properly be attributed only to direct foreign investments or to any other single item or class of transactions. Nor can restriction upon the outflow of any one item or class of items in itself assure reduction in the overall U.S. balance-of-payments deficit. Even in the short run, as under the voluntary program, gains from restraint of foreign direct investment will be offset by subsequent losses. Strains on international capital markets as well as retarded exports and diminished inflows of investment income will reduce receipts on the credit side of our international accounts. In connection with stemming outflows, action to reduce Government expenditures overseas is a vital element in the program.