

Europe to 80 percent of all such earnings in any accounting period or, alternatively, the greater of (1) all such earnings for that accounting period in excess of 35 percent of the average of capital investments in schedule C countries by the direct investor in 1965-66, or (2) all earnings in excess of the percentage of earnings reinvested in 1964-66. Thus, the controls system in large measure denies to direct investors the wherewithal to service these debts and to reduce the overhang which now is advanced as the principal reason for continuing the controls system. It follows that the immediate abolition or the very substantial scaling down of present repatriation requirements should be undertaken at once. Aside from the necessity of abolishing or greatly reducing the repatriation requirement if we are to make our foreign debt manageable there are other objections to this requirement that deserve mention.

Although not yet tested in the courts, the legality of the foreign direct investment controls program has been seriously questioned. Nowhere, in our judgment, is the legal challenge to the program more serious than as it applies to compulsory repatriation and, as part of the legal review of the program which we recommend, we urge that this point receive special attention.

Repatriation, as presently required, imposes uneven and inequitable tax impacts on companies subject to investment controls; a result of the program from which the Treasury Department has consistently declined to recommend relief.

Finally, let us frankly acknowledge that the abolition or scaling down of the repatriation requirement will adversely affect our balance of payments. We think this result must be faced and dealt with or we shall never rid ourselves of controls. The adverse impact of such a move will have to be made up by " * * * solving the real causes of our balance-of-payments deficit, reestablishing the integrity of our fiscal and monetary policies, stimulating exports and encouraging travel to the United States," as pointed out in your statement of October 3. The offset will have to come from measures outside the foreign direct investment program. In no case should any loss occasioned by reduction or abolition of the repatriation requirement lead to an offsetting reduction in investment allowables.

A schedule of phaseout.—In *Nixon on the Issues* under the heading "Balance of Payments," you suggested that your administration will adopt " * * * new policies of prudence and restraint * * * [to] put our own house in order." Clearly this does not contemplate our limping forward painfully from one balance-of-payments crisis to another with controls on direct foreign investment as the principal crutch supporting that uncertain passage. Yet, controls beget controls and the mere passage of time magnifies the distortions which controls create and makes their indefinite continuation seemingly more needful. Because this is true, we think your administration should announce forthrightly and at a very early date a general schedule for phasing out the direct investment controls system.

Consistent with our recommendation concerning abolition or reduction of present repatriation requirements, any such phaseout schedule must make due allowance for the probability that when the system of controls is finally dismantled there will remain a threat to our balance of payments in the form of unpaid foreign debts incurred by direct