FOREIGN INVESTMENT INCENTIVE TAX ACT OF 1960

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

EIGHTY-SIXTH CONGRESS

SECOND SESSION

ON

H.R. 5

AN ACT TO AMEND THE INTERNAL REVENUE CODE OF 1954 TO ENCOURAGE PRIVATE INVESTMENT ABROAD AND THEREBY PROMOTE AMERICAN INDUSTRY AND REDUCE GOVERNMENT EXPENDITURES FOR FOREIGN ECONOMIC ASSISTANCE

JUNE 13 AND AUGUST 23, 1960

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FOREIGN INVESTMENT INCENTIVE TAX ACT OF 1960

MONDAY, JUNE 13, 1960

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C.

The committee met, pursuant to notice, at 10:10 a.m., in room 2221, New Senate Office Building, Senator Russell B. Long presiding.

Present: Senators Long, Frear, Talmadge, Hartke, McCarthy, and Carlson.

Also present: Elizabeth B. Springer, chief clerk.

Senator LONG. I call the hearings to order on H.R. 5.

I wish to present for the record the text of H.R. 5 together with the reports of the Bureau of the Budget, Secretary of Commerce, Secretary of the Treasury, Secretary of the Interior, and the Secretary of State.

(The material referred to follows:)

[H.R. 5, 86th Cong., 2d sess.]

AN ACT To amend the Internal Revenue Code of 1954 to encourage private investment abroad and thereby promote American industry and reduce Government expenditures for foreign economic assistance

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Foreign Investment Incentive Tax Act of 1960".

(b) AMENDMENT OF 1954 CODE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

(c) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this Act shall be effective with respect to taxable years beginning after December 31, 1960.

SEC. 2. FOREIGN BUSINESS CORPORATIONS.

(a) TAX ON FOREIGN BUSINESS CORPORATIONS.—Part III of subchapter N of chapter 1 (relating to income from sources without the United States) is amended by adding at the end thereof the following new subpart:

"Subpart F—Foreign Business Corporations

"Sec. 951. Definition of foreign business corporation, etc.
"Sec. 952. Gross, taxable, and reinvested foreign income of foreign business corporations.
"Sec. 953. Reinvested foreign income account.
"Sec. 954. Distributions, etc., from reinvested foreign income account.
"Sec. 955. Foreign taxes.
"Sec. 956. Special rules.
"Sec. 957. Elected foreign branches of banks taxed as foreign business corporations.

"SEC. 951. DEFINITION OF FOREIGN BUSINESS CORPORATION, ETC.

"(a) FOREIGN BUSINESS CORPORATION DEFINED.—For purposes of this title, the term 'foreign business corporation' means a domestic corporation which has elected the treatment provided by this subpart and which for the taxable year satisfies each of the following requirements:

"(1) It derives 90 percent or more of its gross income from sources within less developed countries (within the meaning of subsection (e)).

"(2) It derives 90 percent or more of its gross income from—

"(A) the active conduct of a trade or business,

"(B) dividends from a qualified payor corporation (as defined in subsection (c)) which are out of earnings and profits of any taxable year for which such corporation was a qualified payor corporation (or would have been such a corporation but for the 10 percent stock ownership requirement of subsection (c)(1)(A)),

"(C) income (other than dividends) from a qualified payor corporation, and

"(D) compensation (other than compensation to which subparagraph (A) or (C) applies)—

"(i) for the rendition, within less developed countries, of technical, managerial, engineering, construction, scientific, or like services; and

"(ii) for the use of, or for the privilege of using, within less developed countries, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like properties (but this clause shall apply only to the extent that the compensation described in this clause does not exceed 25 percent of the corporation's gross income).

"(3) It derives not more than 10 percent of its gross income from the sale of articles which are sold by it for ultimate use, consumption, or disposition in the United States.

"(4) It is not an ineligible corporation (as defined in subsection (d)).

"(5) It furnishes for the taxable year, and for prior taxable years affecting (or affected by) an election under this subpart, such information with respect to such corporation as the Secretary or his delegate has prescribed by forms or regulations as necessary to carry out the provisions of the income tax laws.

"(b) ELECTION.—

"(1) IN GENERAL.—An election under this subpart may be made for any taxable year to which this subpart applies and for which (after making the election) the taxpayer is a foreign business corporation. An election, once effective, shall continue in effect for all subsequent taxable years of of the corporation making the election up to and including—

"(A) the taxable year for which the election is revoked by the filing of a notice of revocation, or

"(B) the taxable year for which the election is terminated by reason of the fact that (i) such corporation was not a foreign business corporation for both such taxable year and the preceding taxable year, or (ii) such taxable year is the last taxable year of the corporation.

"(2) WHEN ELECTION MUST BE MADE, ETC.—An election under this subpart may be made by a corporation for any taxable year at any time during the first month of such taxable year or at any time during the month preceding such first month. Such election shall be made in such manner as the Secretary or his delegate shall by regulations prescribe.

"(3) NOTICE OF REVOCATION.—A notice of revocation (with respect to any taxable year) of an election under this subpart may be made only in such manner, and before such time, as the Secretary or his delegate shall by regulations prescribe.

"(c) QUALIFIED PAYOR CORPORATION DEFINED.—

"(1) IN GENERAL.—For purposes of this subpart, a domestic or foreign corporation shall be treated, with respect to another corporation, as a qualified payor corporation for any of its taxable years (including taxable years beginning before January 1, 1961) with respect to which—

"(A) at least 10 percent of its voting stock is owned by such other corporation,

"(B) it satisfies the requirements described in paragraphs (1), (2), (3), and (4) of subsection (a), and

"(C) it derives 50 percent or more of its gross income from sources within less developed countries from the active conduct of a trade or business.

For purposes of determining the tax of the taxpayer, no corporation shall be treated as a qualified payor corporation, with respect to the taxpayer or any other corporation, unless the taxpayer furnishes such information with respect to such corporation as the Secretary or his delegate has prescribed by forms or regulations as necessary to carry out the provisions of this subpart.

"(2) DISQUALIFICATION FOR INSUFFICIENT LESS DEVELOPED COUNTRY INVESTMENT AND PAYROLL.—A corporation shall not be a qualified payor corporation for any taxable year if, on determining a percentage under section 951(b) with respect to such corporation (whether or not such corporation is a foreign business corporation), such percentage exceeds 20 percent. For purposes of the preceding sentence, a corporation shall be treated as engaged in only one trade or business.

"(3) OTHER SPECIAL RULES.—For purposes of determining under paragraph (1) of this subsection whether a corporation is a qualified payor corporation—

"(A) income from another corporation shall be treated as from a qualified payor corporation if such other corporation satisfies the requirements of paragraph (1) (without regard to subparagraph (C) thereof), and

"(B) a foreign corporation shall be treated as an ineligible corporation if it is a foreign personal holding company.

"(d) INELIGIBLE CORPORATION.—For purposes of subsection (a)(4), each of the following (as determined without regard to this subpart) is an ineligible corporation:

"(1) A corporation exempt from taxation under subchapter F.

"(2) A corporation organized under the China Trade Act, 1922.

"(3) A regulated investment company subject to tax under subchapter M.

"(4) A personal holding company (as defined in section 542).

"(5) A life insurance company (as defined in section 801).

"(6) An unincorporated business enterprise subject to tax as a corporation under section 1361.

"(7) An electing small business corporation (as defined in section 1371(b)).

"(e) LESS DEVELOPED COUNTRY DEFINED; ALLOCATION OF ITEMS TO SOURCES WITHIN OR WITHOUT LESS DEVELOPED COUNTRIES.—For purposes of this subpart—

"(1) LESS DEVELOPED COUNTRY DEFINED.—A less developed country is any foreign country (other than an area within the Sino-Soviet bloc) or any possession of the United States with respect to which, on the first day of the taxable year, there is in effect an Executive order by the President of the United States designating such country or possession as an economically less developed country for purposes of this subpart. For purposes of the preceding sentence, an overseas territory, department, province, or possession may be treated as a separate country.

"(2) CERTAIN COUNTRIES EXCLUDED.—No designation shall be made under paragraph (1) with respect to—

Austria	Italy	Sweden
Belgium	Japan	Switzerland
Canada	Luxembourg	United Kingdom of Great Britain and Northern Ireland
Denmark	Monaco	
France	Netherlands	
Federal Republic of Germany	Norway	
	Portugal	

"(3) SOURCE RULES.—Items of gross income, expenses, losses, and deductions shall be allocated to sources within or without less developed countries under regulations prescribed by the Secretary or his delegate. Such regulations shall, to the extent the Secretary or his delegate finds practicable, be consistent with the principles of part I of this subchapter (relating to determination of sources of income).

"(f) DISQUALIFICATION FOR SUBSTANDARD LABOR CONDITIONS.—

"(1) IN GENERAL.—For purposes of this subpart, a corporation referred to in subsection (a) or (c) shall be treated as an ineligible corporation within the meaning of subsection (d) for any taxable year during which it operates in any less developed country under substandard labor conditions. Any determination that this paragraph applies to any corporation for any taxable year shall be made by the Secretary of Labor. Any such determination shall be final, except that it shall be subject to review by the courts (including the Tax Court of the United States) in a proceeding for the recovery of income tax or for a redetermination of a deficiency in respect of income tax.

"(2) SUBSTANDARD LABOR CONDITIONS.—For purposes of this subsection, the term 'substandard labor conditions' means aggregate remuneration (including remuneration other than in money) for employment which is—

"(A) below the minimum standards required under the laws of the country concerned, or

"(B) if there are no such minimum standards—

"(i) below the average standards prevailing for other employers in the same industry in such country or (if there are no other employers in the same industry) for other employers in similar industries in such country, or

"(ii) where there are no average standards referred to in clause (i), substantially below the standards generally prevailing in the industries of such country.

"(3) DETERMINATION AND CERTIFICATION BY SECRETARY OF LABOR.—

"(A) INVESTIGATIONS.—On application of any affected domestic party (if the Secretary of Labor has reason to believe that the conditions described in this subparagraph exist), or on his own initiative, the Secretary of Labor shall make an investigation to determine whether any corporation referred to in subsection (a) or (c) has operated in any less developed country under substandard labor conditions.

"(B) ATTENDANCE OF WITNESSES; PRODUCTION OF DOCUMENTS.—For the purpose of any investigation under subparagraph (A), the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (15 U.S.C., secs. 49 and 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary of Labor or any officers designated by him.

"(C) CERTIFICATION.—If, pursuant to any investigation under subparagraph (A), the Secretary of Labor determines that a corporation has operated in any less developed country under substandard labor conditions during any taxable year, he shall promptly certify such determination to the Secretary of the Treasury or his delegate.

"(D) ADMINISTRATIVE PROCEDURE ACT INAPPLICABLE.—The Administrative Procedure Act shall not apply with respect to investigations and determinations by the Secretary of Labor under this subsection.

"(E) TAXABLE YEARS AFFECTED.—No determination shall be made by the Secretary of Labor with respect to any corporation for any taxable year unless, during such taxable year, the taxpayer has been notified that an investigation under subparagraph (A) has begun, or is continuing, with respect to such corporation for such year.

"(F) REGULATIONS.—The Secretary of Labor may prescribe such regulations as may be necessary to the performance of his functions under this subsection.

"(4) CROSS REFERENCES.—

"For provisions relating to the authority of the Secretary or his delegate to require the taxpayer to furnish information, see subsection (a)(5) and the last sentence of subsection (c)(1).

"SEC. 952. GROSS, TAXABLE, AND REINVESTED FOREIGN INCOME OF FOREIGN BUSINESS CORPORATIONS.

"(a) GROSS INCOME AND TAXABLE INCOME OF FOREIGN BUSINESS CORPORATION.—For purposes of this title (other than section 170, relating to charitable contributions or gifts, subchapter G of this chapter, relating to corporations used to avoid income tax on shareholders, subpart C of this part, relating to Western Hemisphere trade corporations, and section 951)—

"(1) The gross income of a foreign business corporation shall be the sum of—

"(A) the gross income from sources without less developed countries, and

"(B) the amount (which shall be treated as an item of income derived from sources without the United States during the taxable year) subtracted from its reinvested foreign income account for the taxable year, as determined under section 953.

"(2) The taxable income of a foreign business corporation shall be the amount determined under paragraph (1), minus the sum of the deductions allowed by this chapter which are allocable to sources without less developed countries.

"(b) REINVESTED FOREIGN INCOME DEFINED.—

"(1) IN GENERAL.—For purposes of this subpart, the term 'reinvested foreign income' means the taxable income from sources within less developed countries.

"(2) SPECIAL RULES.—In determining the reinvested foreign income for any taxable year—

"(A) No deduction shall be allowed for income, war profits, and excess profits taxes which are allocable to sources within less developed countries and which are paid or accrued to any foreign country or to any possession of the United States.

"(B) If the net long-term capital gain from sources within less developed countries exceeds the net short-term capital loss from such sources, then the reinvested foreign income for such taxable year shall be the sum of—

"(i) the reinvested foreign income (computed without regard to this subparagraph) reduced (but not below zero) by the amount of such excess, and

"(ii) the amount ascertained by multiplying the amount of such excess by the percentage obtained by subtracting from 100 percent the sum of the normal and surtax rates applicable to such taxable year.

This subparagraph shall apply only if the amount of reinvested foreign income determined under this subparagraph is less than the amount determined without regard to this subparagraph.

"SEC. 953. REINVESTED FOREIGN INCOME ACCOUNT.

"(a) IN GENERAL.—Each corporation making an election under this subpart shall, for purposes of this subpart, establish and maintain a reinvested foreign income account. The amount in such account as of the first day of the first taxable year to which the election applies shall be zero.

"(b) ADDITIONS TO ACCOUNT.—The amount added to the reinvested foreign income account for any taxable year for which the corporation is a foreign business corporation shall be an amount equal to the reinvested foreign income for such taxable year.

"(c) SUBTRACTIONS FROM ACCOUNT.—

"(1) ORDER OF SUBTRACTION.—Any amount subtracted from the reinvested foreign income account of a corporation for any taxable year shall be treated as made first out of the addition to such account for such year, to the extent thereof, and thereafter out of the most recently added amounts which have not previously been subtracted.

"(2) AMOUNT OF SUBTRACTION.—Except as provided in paragraph (3), the amount of the subtraction from the reinvested foreign income account of a corporation for any taxable year shall be the sum of—

"(A) the amount which is treated under this subpart as distributed from such account for such year, plus

"(B) whichever of the following amounts is the larger:

"(i) the amount by which the tax imposed by this chapter for the taxable year is increased by section 952(a)(1)(B) or 956(b), or

"(ii) the ratable portion of the income, war profits, and excess profits taxes which are allocable to sources within less developed countries and which are paid or accrued to foreign countries and possessions of the United States during the taxable year of the addition out of which the subtraction is made.

If a subtraction from the reinvested foreign income account for any taxable year is out of more than one addition to such account, subparagraph (B) shall be applied separately with respect to each taxable year of addition out of which the subtraction is made.

"(3) ENTIRE AMOUNT SUBTRACTED IN CASE OF REVOCATION OR TERMINATION.—Except as provided in section 381(c)(23), if an election under this subpart is revoked or terminated, the entire amount in the reinvested foreign income account shall be subtracted from the account for the last taxable year for which such election was in effect.

"(4) ACCOUNT NOT TO BE REDUCED BELOW ZERO.—Amounts subtracted under this subsection shall not reduce the reinvested foreign income account below zero.

"SEC. 954. DISTRIBUTIONS, ETC., FROM REINVESTED FOREIGN INCOME ACCOUNT.

"(a) GENERAL RULE.—For purposes of this subpart, the amount of any distribution to shareholders shall be treated as made out of the reinvested foreign income account. For purposes of this subsection—

"(1) the term 'distribution' includes any distribution in redemption of stock or in partial or complete liquidation of the corporation, but does not include any distribution made by the corporation in its stock or in rights to acquire its stock; and

"(2) the amount of any distribution shall be the fair market value of the property distributed.

"(b) DISTRIBUTION BY REASON OF INVESTMENT AND PAYROLL WITHOUT LESS DEVELOPED COUNTRIES.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary or his delegate, there shall be treated as distributed to shareholders for the taxable year, out of the reinvested foreign income account, one-half of the amount determined by multiplying the portion of the reinvested foreign income for the taxable year which is attributable to the active conduct of a trade or business by the percentage determined by dividing—

"(A) the sum of (i) the adjusted basis of the taxpayer's property without less developed countries, and (ii) an amount 2 times the amount paid or accrued during the taxable year for labor and personal services performed without less developed countries, by

"(B) the sum of (i) the adjusted basis of the taxpayer's property wherever located, and (ii) an amount 2 times the amount paid or accrued during the taxable year for all labor and personal services.

For purposes of the preceding sentence, only real property and tangible personal property (other than property described in section 1221(1)), and labor and personal services, which are ordinary and necessary for carrying on the trade or business shall be taken into account. In the case of a taxpayer engaged in two or more separate and distinct trades or businesses, separate computations shall be made under this subsection with respect to each such trade or business.

"(2) PARAGRAPH (1) INAPPLICABLE WHERE PERCENTAGE IS LESS THAN 10 PERCENT.—If the percentage determined under paragraph (1) with respect to any trade or business for any taxable year is less than 10 percent, paragraph (1) shall not apply to such trade or business for such taxable year.

"(c) HOLDING OF PROHIBITED PROPERTY TREATED AS DISTRIBUTION.—

"(1) PROPERTY HELD BY FOREIGN BUSINESS CORPORATION.—If the taxpayer holds prohibited property at any time during the taxable year, it shall be treated as having made a distribution to shareholders out of its reinvested foreign income account for such taxable year.

"(2) PROPERTY HELD BY CERTAIN OTHER CORPORATIONS.—If the taxpayer owns (directly or through one or more other corporations) 10 percent or more of the voting stock of another corporation, it shall be treated for purposes of paragraph (1) as holding a corresponding percentage of the property held by such other corporation which would be prohibited property if such other corporation were a foreign business corporation.

"(3) AMOUNT OF DISTRIBUTION.—

"(A) MAXIMUM AMOUNT TO BE TAKEN INTO ACCOUNT.—This subsection shall be applied, with respect to the taxpayer, at that time during its taxable year when it results in the maximum amount of prohibited property.

"(B) AMOUNT TAKEN INTO ACCOUNT WITH RESPECT TO PARTICULAR PROPERTIES.—For purposes of this subsection, the amount taken into account with respect to any property shall be the adjusted basis of such property, reduced by the sum of—

"(i) any liability to which such property is subject, and

"(ii) the aggregate amount treated as distributions for prior taxable years by reason of such corporation's holding such property.

For purposes of clause (ii), a distribution for a prior taxable year shall be treated as attributable first to the properties constituting prohibited property which were held at the close of such taxable year.

"(4) PROHIBITED PROPERTY DEFINED.—

"(A) IN GENERAL. For purposes of this subsection, the term 'prohibited property' means any property other than—

"(i) tangible or intangible property which is ordinary and necessary for carrying on a trade or business of the taxpayer (but only if for the taxable year or for the preceding taxable year 90 percent or more of the gross income of such trade or business is derived from sources within less developed countries),

"(ii) securities of another corporation which is a qualified payor corporation (or a corporation, at least 10 percent of the voting stock of which is owned by the taxpayer, with respect to which an election under this subpart is in effect) for its taxable year ending with or within the taxpayer's taxable year of for the immediately preceding taxable year of such other corporation,

"(iii) obligations of foreign governments, but only to the extent that the aggregate adjusted basis of all such obligations does not exceed 15 percent of the taxpayer's earnings and profits accumulated after December 31, 1960 (determined as of the beginning of the taxable year),

"(iv) obligations of the United States, money, and deposits with persons carrying on the banking business, and

"(v) any loan to which subsection (d) applies.

"(B) SECURITY DEFINED.—For purposes of subparagraph (A), the term 'security' means any share of stock in any corporation, certificate of stock or interest in any corporation, note, bond, debenture, or evidence of indebtedness, or any evidence of an interest in or right to subscribe to or purchase any of the foregoing.

"(5) SPECIAL RULES FOR APPLICATION OF PARAGRAPH (2).—

"(A) NO ATTRIBUTION THROUGH A FOREIGN BUSINESS CORPORATION.—Paragraph (2) shall not apply to—

"(i) stock held in a corporation with respect to which an election under this subpart is in effect, and

"(ii) stock and other property which (but for this clause) would be treated as held by the taxpayer solely by reason of holding stock described in clause (i).

"(B) NO DUPLICATION IN ATTRIBUTION THROUGH ANOTHER CORPORATION.—If (but for this subparagraph) any corporation would be treated under paragraph (2) as holding prohibited property by reason of—

"(i) stock in another corporation, and

"(ii) stock or other property held by such other corporation,

There shall be taken into account under such paragraph only the amount determined with respect to clause (i) or clause (ii), whichever is the greater.

"(C) FAIR MARKET VALUE TAKEN INTO ACCOUNT WHERE INFORMATION IS NOT FURNISHED.—For purposes of this subsection, the amount taken into account for any taxable year by the taxpayer with respect to any other corporation described in paragraph (2) shall be the fair market value of its direct or indirect stock holdings in such corporation, unless the taxpayer furnishes such information with respect to such corporation as the Secretary or his delegate has prescribed by forms or regulations as necessary to carry out the provisions of this subpart.

"(d) TREATMENT OF CERTAIN LOANS.—

"(1) IN GENERAL.—For purposes of this subpart, if any corporation makes a loan to another corporation which owns (directly or through one or more other corporations) 10 percent or more of the voting stock of the lending corporation, then—

"(A) If the lending corporation is a foreign business corporation (or a corporation with respect to which an election under this subpart is in effect), it shall be treated as having made a distribution to shareholders, in an amount equal to the loan, out of its reinvested foreign income account for such taxable year.

"(B) If the borrowing corporation is a foreign business corporation, an amount equal to the loan shall be treated, for purposes of determining reinvested foreign income, as an item of gross income received at the time the loan was received.

For purposes of applying this paragraph, each corporation in a chain of ownership (other than the lending and the borrowing corporations) shall be treated as having received, and in turn distributed, an amount equal to such loan.

"(2) OUTSTANDING LOANS WHICH HAVE NOT BEEN TREATED AS DISTRIBUTIONS.—If any loan described in paragraph (1) remains outstanding in any taxable year of the lending corporation after the taxable year in which made, such loan shall be treated (for purposes of paragraph (1)) as made in such succeeding taxable year in an amount equal to the amount so outstanding, but the amount taken into account with respect to any corporation shall be reduced by the amount treated as distributions by such corporation for prior taxable years by reason of such loan.

"(3) CERTAIN OPEN ACCOUNTS AND OTHER COMMERCIAL LOANS EXCEPTED.—This subsection shall not apply in the case of any loan arising in connection with the sale of property, if the amount of such loan outstanding at no time during the taxable year exceeds the amount which would be ordinary and necessary to carry on the trade or business of both the lending corporation and the borrowing corporation had the sale been made between unrelated corporations.

"(e) LIMITATION ON AMOUNT TREATED AS DISTRIBUTED BY REASON OF PROHIBITED PROPERTY AND LOANS.—The amount treated as distributed under subsections (c) and (d) for any taxable year shall not exceed the amount of a distribution to shareholders which (after the application of subsections (a) and (b)) would reduce the amount in the reinvested foreign income account to zero.

"SEC. 955. FOREIGN TAXES.

"(a) YEAR FOREIGN TAXES TAKEN INTO ACCOUNT.—

"(1) IN GENERAL.—For purposes of this chapter (other than this subpart)—

"(A) any income, war profits, and excess profits taxes which are allocable to sources within less developed countries and which are paid or accrued during any taxable year to any foreign country or to any possession of the United States by a foreign business corporation shall not (except as otherwise provided by this subsection) be taken into account for such taxable year, and

"(B) where an amount is subtracted from the reinvested foreign income account of any corporation, a ratable portion of such taxes so allocable and so paid or accrued during the taxable year of the addition out of which the subtraction is made shall, for purposes of subpart A and section 164, be treated as paid or accrued during the taxable year for which the subtraction is made.

"(2) YEAR FOR WHICH NO REINVESTED FOREIGN INCOME.—Paragraph (1)(A) shall not apply to a foreign business corporation for any taxable year for which no amount is added to the reinvested foreign income account.

"(b) FOREIGN TAX CREDIT—OVERALL LIMIT TO APPLY.—In the case of a corporation to which an election under this subpart applies—

"(1) section 904(a) shall not apply,

"(2) the total amount of the credit in respect of taxes paid or accrued to all countries and possessions shall not exceed the same proportion of the tax against which such credit is taken which the taxpayer's taxable income from sources without the United States (but not in excess of the taxpayer's entire taxable income) bears to its entire taxable income for the same taxable year, and

"(3) the reference in section 904(c) to subsection (a) of section 904 shall be treated as a reference to paragraph (2) of this subsection.

For purposes of paragraph (2), the taxable income from sources without the United States shall be determined by including the amount subtracted from the reinvested foreign income account for the taxable year and, if the corporation is a foreign business corporation for the taxable year, by excluding the items referred to in section 952(b) (relating to definition of reinvested foreign income).

In applying section 904(c), no amount paid or accrued for a taxable year to which an election under this subpart applied shall (except for purposes of determining the number of taxable years which have elapsed) be deemed paid or accrued under section 904(c) in any year for which an election under this subpart does not apply.

"(c) FOREIGN TAXES INCLUDE DEEMED TAXES.—For the purposes of this subpart, any reference to income, war profits, and excess profits taxes paid or accrued to any foreign country or to any possession of the United States shall be treated as including such taxes deemed paid under section 902.

"SEC. 956. SPECIAL RULES.

"(a) SURTAX EXEMPTIONS.—In the case of a corporation to which an election under this subpart applies, the surtax under section 11(c) for the taxable year shall be determined by substituting for 'exceeds $25,000' the following: 'exceeds $25,000 (or, if smaller, the taxable income computed without regard to the amount subtracted from the taxpayer's reinvested foreign income account)'.

"(b) GROSS INCOME FOR TAXABLE YEAR FOR WHICH CORPORATION IS NOT A FOREIGN BUSINESS CORPORATION.—For purposes of this title (other than section 170, relating to charitable contributions or gifts, subchapter G of this chapter, relating to corporations used to avoid income tax on shareholders, subjart C of this part, relating to Western Hemisphere trade corporations, and section 951), if an election under this subpart is in effect with respect to any corporation for any taxable year for which such corporation is not a foreign business corporation, the gross income of such corporation shall include (as an item of income derived from sources without the United States during the taxable year) the amount subtracted from its reinvested foreign income account for the taxable year.

"(c) APPLICATION OF SECTIONS 172 AND 1212.—

"(1) COMPUTATION OF REINVESTED FOREIGN INCOME.—In computing reinvested foreign income for any taxable year—

"(A) no net operating loss carryover or carryback, and

"(B) no capital loss carryover,

shall be allowed from a taxable year for which the corporation was not a foreign business corporation.

"(2) LIMITATION ON YEARS TO WHICH FOREIGN SOURCE LOSSES MAY BE CARRIED.—Except as provided in paragraph (3)—

"(A) no net operating loss carryover or carryback, and

"(B) no capital loss carryover,

which is from a taxable year for which the corporation was a foreign business corporation, and which is attributable to sources within less developed countries, shall be allowed for any taxable year for which the corporation is not a foreign business corporation.

"(3) ADJUSTMENT IN CARRYOVERS ON REVOCATION OR TERMINATION OF ELECTION.—If an election under this subpart is revoked or terminated for any taxable year, then—

"(A) the net operating loss carryover from any taxable year for which the corporation was a foreign business corporation (hereinafter in this subparagraph referred to as 'loss year') to taxable years succeeding the last taxable year for which the election was in effect shall include the net operating loss carryover (reduced as provided by section 172(b)) from the loss year from sources within less developed countries, and

"(B) in determining the short-term capital loss provided by section 1212 for taxable years succeeding the last taxable year for which the election was in effect, a rule similar to the rule provided by subparagraph (A) shall be applied.

"(d) LIMITATION ON INFORMATION REQUIRED TO BE FURNISHED.—No information shall be required to be furnished with respect to any corporation under section 951(a)(5), 951(c)(1), or 954(c)(5)(C), for any of its taxable years beginning after December 31, 1960, unless such information is of a character which was required to be furnished under the forms or regulations in effect on the first day of such taxable year.

"SEC. 957. ELECTED FOREIGN BRANCHES OF BANKS TAXED AS FOREIGN BUSINESS CORPORATIONS.

"(a) GENERAL RULE.—Subject to the qualifications in subsection (b), an election may be made by a bank (as defined in section 581) which during the taxable year operates a branch in a less developed country, permitting such branch to be subject to taxation as a foreign business corporation for such year and subsequent years as provided in subsection (e). Such election shall be made in accordance with regulations prescribed by the Secretary or his delegate. Each branch with respect to which such electing bank has made an election under this subsection shall be an 'elected branch' for purposes of this section.

"(b) QUALIFICATIONS.—The election described in subsection (a) may not be made with respect to a foreign branch unless such branch—

"(1) derives 90 percent or more of its gross income from sources within less-developed countries; and

"(2) derives 90 percent or more of its gross income from the active conduct of a trade or business, which for purposes of this paragraph shall include commissions and interest and all income and gains from loans and investments ordinary and necessary for the carrying on of such trade or business.

"(c) CORPORATE PROVISIONS APPLICABLE.—Under regulations prescribed by the Secretary or his delegate, an elected branch shall, except as provided in subsection (g), be considered a corporation for purposes of this subtitle with respect to operation, distributions, and any other purpose; and the electing bank shall be considered the sole shareholder thereof.

"(d) DURATION OF ELECTION.—The election under subsection (a) may be made for any taxable year beginning after December 31, 1962, and shall continue in effect for all subsequent years until terminated, either by notice of revocation filed by the taxpayer, or by failure of the elected branch for two successive taxable years to qualify under this section.

"(e) IMPOSITION OF TAXES.—An elected branch shall be treated as a corporation with respect to which an election under this subpart is in effect.

"(f) COMPUTATION OF TAXABLE INCOME.—In computing the taxable income of an elected branch, there shall be allowed only such deductions and credits as are properly allocable to the operation of the business of such branch.

"(g) PROVISION INAPPLICABLE.—An elected branch shall not be considered a corporation, nor shall the electing bank be considered a shareholder, for purposes of subchapter C, except with respect to—

"(1) contributions of property, constituting either paid-in surplus or contributions to capital; and

"(2) part I thereof (relating to distributions).

(h) MULTIPLE BRANCHES.—

"(1) COMBINING BRANCHES IN 2 OR MORE COUNTRIES.—If, at the time of making its first election under this section, a bank makes such election with respect to branches in more than one less developed country, it may (for purposes of this section) elect to make one or more combinations of such branches and to treat each such combination as a single elected branch. If, thereafter, a branch becomes an elected branch for the first time, such branch may be combined with any other elected branch (whether separate or combined).

"(2) BRANCHES IN SAME COUNTRY MUST BE COMBINED.—For purposes of this section, each branch in any one less developed country shall be treated as included within any election made under this section with respect to any other branch in such country.

"(3) TREATMENT TO BE CONTINUED.—If a bank for any taxable year elects to treat its branch in any less developed country separately or in a specified combination, such treatment shall (except as provided in the last sentence of paragraph (1)) be continued for all subsequent taxable years, unless the Secretary or his delegate consents to a different treatment.

"(i) DIVIDENDS RECEIVED OUT OF REINVESTED FOREIGN INCOME ACCOUNT.—In the case of an electing bank which receives a dividend from an elected branch out of its reinvested foreign income account, there shall be allowed as a deduction an amount equal to 100 percent of the amount received as a dividend."

(b) CERTAIN DIVIDENDS RECEIVED OUT OF REINVESTED FOREIGN INCOME ACCOUNT.—

(1) Section 243 (relating to dividends received by corporations) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) DIVIDENDS RECEIVED OUT OF REINVESTED FOREIGN INCOME ACCOUNT.—If—

"(1) a domestic corporation receives a dividend from another corporation out of such other corporation's reinvested foreign income account (within the meaning of section 953), and

"(2) the recipient corporation, or another domestic corporation, is in control (within the meaning of section 368(c)) of the payor corporation,

then there shall be allowed as a deduction an amount equal to 100 percent of the amount received as a dividend."

(2) Section 243(a) is amended by striking out "In the case of a corporation (other than a small business investment company operating under the Small Business Investment Act of 1958)" and inserting in lieu thereof the following: "Except as provided in subsections (b) and (c), in the case of a corporation".

(c) CARRYOVERS.—Section 381(c) of the Internal Revenue Code of 1954 (relating to items of distributor or transferor corporations taken into account) is amended by adding at the end thereof the following new paragraph:

"(23) SUCCESSOR FOREIGN BUSINESS CORPORATION.—If the acquiring corporation is a foreign business corporation (as defined in section 951), there shall be taken into account (to the extent proper to carry out the purposes of this section and subpart F of part III of subchapter N, and under such regulations as may be prescribed by the Secretary or his delegate) the reinvested foreign income account, and the items related thereto (including income, war profits, and excess profits taxes which are allocable to sources within less developed countries and which are paid or accrued to any foreign country or to any possession of the United States), of the distributor or transferor corporation."

(d) PERSONAL HOLDING COMPANY INCOME.—Section 543 (relating to personal holding company income) is amended by adding at the end thereof the following new subsection:

"(d) DIVIDENDS, ETC., RECEIVED BY FOREIGN BUSINESS CORPORATIONS.—

"(1) IN GENERAL.—Subsection (a)(1) shall not apply to dividends, interest, or royalties (other than mineral, oil, or gas royalties) received or accrued by a corporation which (on applying this subsection) is a foreign business corporation for the taxable year if—

"(A) during its entire taxable year more than 50 percent in value of its outstanding stock is owned by a domestic parent corporation;

"(B) such domestic parent corporation, for its taxable year which ends with (or within which ends) the taxable year of the foreign business corporation—

"(i) is not a personal holding company; and

"(ii) would not be a personal holding company if such domestic parent corporation itself had derived its proportionate share of each item of gross income derived by each subsidiary for the taxable year of such subsidiary which ends with or within the taxable year of the domestic parent corporation; and

"(C) the dividends, interest, and royalties referred to in subsection (a)(1) are received or accrued by the foreign business corporation from another corporation—

"(i) in which the foreign business corporation owns, directly or indirectly, more than 50 percent in value of the outstanding stock (or such lesser percentage as is the maximum percentage which the foreign business corporation may own under the law applicable to it or to such other corporation), and

"(ii) which, for its taxable year which ends with or within the taxable year of the foreign business corporation and for its two preceding taxable years (or for such part thereof as it was in existence), has derived 70 percent or more of its gross income from sources within less developed countries (within the meaning of section 951(e)) and from the active conduct of a trade or business.

"(2) SPECIAL RULES FOR APPLICATION OF SUBSECTION.—

"(A) For purposes of this subsection, the term 'foreign business corporation' includes a corporation with respect to which an election under section 951 is in effect.

"(B) For purposes of paragraph (1)(B), a corporation is a subsidiary of the domestic parent corporation if it is a domestic corporation and if (at any time during the subsidiary's taxable year referred to in paragraph (1)(B)) the domestic parent corporation held more than 50 percent in value of its outstanding stock; and the proportionate share with respect to any item of gross income of such a subsidiary is that percentage which equals the percentage of stock ownership at that time (during the subsidiary's taxable year referred to in paragraph (1)(B)) when such ownership by the domestic parent corporation was the greatest.

"(C) For purposes of paragraph (1)(C), if the trade or business referred to in clause (ii) thereof is of the same or similar or related character as the trade or business conducted by the domestic parent corporation, the percentage in clause (i) thereof shall be 25 percent in lieu of 50 percent."

(e) FOREIGN BUSINESS CORPORATIONS NOT INCLUDIBLE CORPORATIONS IN AFFILIATED GROUPS.—Section 1504(b) (relating to definition of includible corporations for purposes of consolidated returns) is amended by adding at the end thereof the following new paragraph:

"(8) A corporation with respect to which an election under subpart F of part III of subchapter N (relating to foreign business corporations) is in effect."

(f) TECHNICAL AMENDMENTS.—

(1) The table of subparts for part III of subchapter N of chapter 1 is amended by adding at the end thereof the following:

"Subpart F. Foreign business corporations."

(2) Section 901(d) is amended by adding at the end thereof the following new paragraph:

"(4) For special rules relating to foreign business corporations, see section 955."

(3) Section 903 (relating to credit for taxes in lieu of income, etc., taxes) is amended by striking out "For purposes of this subpart and of section 164(b)," and inserting in lieu thereof "For purposes of this subpart, subpart F, and section 164(b),".

SEC. 3. CERTAIN TRANSFERS TO FOREIGN CORPORATIONS AND TO FOREIGN BUSINESS CORPORATIONS.

(a) AMENDMENT OF SECTION 367.—Section 367 (relating to foreign corporations) is amended—

(1) by striking out "In determining" and inserting in lieu thereof the following:

"(a) GENERAL RULE.—In determining"; and

(2) by adding at the end thereof the following new subsections:

"(b) EXCEPTION FOR CERTAIN TRANSFERS TO FOREIGN BUSINESS CORPORATIONS.—Subsection (a) shall not apply in the case of any exchange referred to in subsection (a) if such exchange arises out of, or in connection with, a transfer (whether or not in liquidation) of substantially all of the properties of a foreign corporation to a foreign business corporation (as defined in section 951(a)). In the case of such an exchange, the accumulated earnings and profits, if any, of the foreign corporation shall be treated (except for purposes of section 951) as having been distributed immediately before the exchange or liquidation to the foreign business corporation as a dividend.

"(c) EXCEPTION FOR CERTAIN TRANSFERS BY FOREIGN BUSINESS CORPORATIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply in the case of any exchange referred to in subsection (a) if such exchange arises out of, or in connection with, a transfer of foreign business property by a foreign business corporation (as defined in section 951(a)) to a foreign corporation in exchange for stock of such foreign corporation, if for its first taxable year beginning after such exchange such foreign corporation—

"(A) is controlled (as defined in section 368 (c)) by one or more foreign business corporations, and

"(B) is a qualified payor corporation (as defined in section 951(c)) with respect to each such corporation.

"(2) FOREIGN BUSINESS PROPERTY DEFINED.—For purposes of paragraph (1), the term 'foreign business property' means any property which is transferred for use, and within 6 months after the transfer is in use, by the transferee in the active conduct of a trade or business; except that such term does not include—

"(A) property described in section 1221(1),

"(B) stock in a domestic corporation, and

"(C) stock in a foreign corporation, unless such stock is voting stock in a qualified payor corporation as to the foreign business corporation for its last 3 taxable years ending before the exchange and, for its first taxable year beginning after the exchange (i) is a qualified payor corporation as to the foreign corporation, and (ii) derives 50 percent or more of its gross income from sources within less developed countries (within the meaning of section 951(e)) from the active conduct of a trade or business.

For purposes of this paragraph, stock which qualifies as property under subparagraph (C) shall be deemed property used in the active conduct of a trade or business."

(b) AMENDMENT OF SECTION 1492.—Section 1492 (relating to nontaxable transfers) is amended to read as follows:

"SEC. 1492. NONTAXABLE TRANSFERS.

"The tax imposed by section 1491 shall not apply—

"(1) if the transferee is an organization exempt from income tax under part I of subchapter F of chapter 1 (other than an organization described in section 401(a));

"(2) if the stock transferred is 'foreign business property' as defined in section 367(c) (relating to certain transfers by foreign business corporations); or

"(3) if before the transfer it has been established to the satisfaction of the Secretary or his delegate that such transfer is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes."

(c) TRANSFER OF INVENTORY TO FOREIGN BUSINESS CORPORATIONS AND FOREIGN CORPORATIONS.—

(1) Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 78. TRANSFER OF INVENTORY TO FOREIGN BUSINESS CORPORATIONS AND FOREIGN CORPORATIONS.

"(a) GENERAL RULE.—If any person transfers property which, in his hands, is property described in section 1221(1)—

"(1) to a corporation for which an election is in effect under subpart F (relating to foreign business corporations) of part III of subchapter N, or

"(2) to a foreign corporation,

in exchange for stock or securities in such corporation or as a contribution to the capital of such corporation, then such person shall be treated as having exchanged such property for stock in such corporation having a fair market value equal to the fair market value of the property so transferred.

"(b) NONAPPLICATION OF SECTION 351.—Section 351 shall not apply to any transfer of property described in subsection (a)."

(2) The table of sections for such part II is amended by adding at the end thereof the following:

"Sec. 78. Transfer of inventory to foreign business corporations and foreign corporations."

(3) Subsection (d) of section 351 (relating to transfer to corporation controlled by transferor) is amended by adding at the end thereof the following new paragraph:

"(5) For nonapplication of this section in the case of inventory transferred to a foreign business corporation or a foreign corporation, see section 78(b)."

Passed the House of Representatives May 18, 1960.

Attest:

RALPH R. ROBERTS, *Clerk.*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, June 13, 1960.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in reply to your request of May 20, 1960, for a report from the Bureau of the Budget on H.R. 5, a bill to amend the Internal Revenue Code of 1954 to encourage private investment abroad and thereby promote American industry and reduce Government expenditures for foreign economic assistance.

It has long been an objective of the administration to encourage more reliance on private enterprise in foreign economic development. This is particularly so with respect to those countries of the free world whose economies are in the developing stages. In his budget message this year, the President recommended that to provide an additional incentive to private investment, "* * * U.S. taxation of income earned in the less developed areas only should be deferred until repatriated." Those portions of H.R. 5 that would achieve the substance of this recommendation are, therefore, in accord with the program of the President.

As to other portions of the bill, particularly those that would deny the tax deferral provisions to corporations failing to meet minimum labor standards abroad and to those corporations deriving mre than 10 percent of their gross income from the sale of articles which are sold by it for ultimate use, consumption or distribution in the United States, the Bureau of the Budget concurs with the views expressed by the Departments of Commerce, State, and Treasury in their reports to you.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

THE SECRETARY OF COMMERCE,
Washington, June 14, 1960.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your letter of May 20, 1960, requesting the views of this Department with respect to H.R. 5, a bill to amend the Internal Revenue Code of 1954 to encourage private investment abroad and thereby promote American industry and reduce Government expenditures for foreign economic assistance.

This bill has as its purpose the encouragement of U.S. private investment in the less developed areas. For a number of years this Department, together with other executive agencies, has attempted to further American private investment, particularly in the less developed areas. Consideration has also been given of the further steps appropriate for this purpose. In this connection we have, of course, sought the views of the business community.

For some time, it has been evident that there is a very generally held view among businessmen that the greatest incentives that the U.S. Government could give to foreign private investment lie in the tax field. This view is expressed in most of the responses to the questionnaire which this Department sent to businessmen in connection with the recently concluded study under section 413(c) of the Mutual Security Act of 1954, as amended. A summary of these responses has been published under the title, "Reportorial Review—Responses to Business Questionnaire Regarding Private Investment Abroad."

Of course, there are differences among businessmen as to the kind of tax incentives which would be most fruitful. There has, however, been a gradually developing consensus that the ability to reinvest earnings from foreign operations without tax consequence until such time as the earnings are repatriated in the United States would provide one of the most effective forms of tax relief in this field. Tax deferral has, for example, been recently supported in the January 22, 1959, report of the Committee on World Economic Practices of the Business Advisory Council.

It is the view of this Department that since investment decisions are made by businessmen, their opinions as to the considerations which would induce greater investment on their part merit careful consideration by the Congress.

Insofar as the substance of this bill is concerned, it is the view of this Department that it would be appropriate to take a prudent step in the direction of tax relief to those investing abroad. In our view, such tax relief should take the form of deferral of tax on income derived by foreign business corporations of the type contemplated by the bill which obtain substantially all of their income from investments in the less developed parts of the free world.

There are, however, two provisions of the bill which give this Department concern. The first would deny tax deferral to corporations failing to meet minimum labor standards of the country in which they are operating (sec. 951 (f)). The second is the provision which would deny qualification to a corporation which derives "more than 10 percent of its gross income from the sale of articles which are sold by it for ultimate use, consumption, or distribution in the United States" (sec. 951(a)(3)). Both of these provisions would appear to be unsound as a matter of tax, and raise problems of foreign economic policy. Moreover, they would appear to create great difficulties of interpretation, administration, and enforcement.

While, therefore, this Department can, in general, support the legislation, it would recommend the elimination of sections 951(f) and 951(a)(3).

In view of the full report which has been submitted to the Committee by the Treasury Department, it is not necessary for this Department's report to go into further detail.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

PHILIP A. RAY,
Under Secretary of Commerce.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 7, 1960.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR SENATOR BYRD: This is in response to your request for a report on H.R. 5, a bill to amend the Internal Revenue Code of 1954 to encourage private investment abroad and thereby promote American industry and reduce Government expenditures for foreign economic assistance.

The bill does not appear to relate to any matter within the jurisdiction of this Department or to affect any matter upon which the Department would be in a position to give helpful information or advice. Accordingly, this Department has no comment to offer with respect to the merit of the purpose or provisions of the bill.

We greatly appreciate your bringing this matter to our attention, and welcome the opportunity to submit recommendations on any measure where the activities of the Department may possibly be involved, or where its experience may possibly be of value.

Sincerely yours,

D. OTIS BEASLEY,
Administrative Assistant, Secretary of the Interior.

DEPARTMENT OF STATE,
June 10, 1960.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate.

DEAR MR. CHAIRMAN: In response to your request of May 25, the Department of State offers the following comments on H.R. 5, the Foreign Investment Incentive Tax Act of 1960. The purpose of this bill is to amend the Internal Revenue Code of 1954 to encourage private investment abroad and thereby promote American industry and reduce Government expenditures for foreign economic assistance.

The principle of tax deferral as embodied in the bill can be a significant inducement to U.S. private investment to flow to the less developed countries of the free world, thereby serving our country's policy interest by promoting the economic development of those countries. The Department of State recommends enactment of the tax deferral provision in H.R. 5.

The Department strongly objects, however, to inclusion of the trade protective provision in lines 4 through 7 on page 4 of the bill, and to the labor standards provision on pages 9 through 12.

The trade protective provision prescribes that, in order for a corporation to be eligible for the bill's benefits, not more than 10 percent of the corporation's gross income may be derived "from the sale of articles which are sold by it for ultimate use, consumption, or disposition in the United States." This provision runs counter to U.S. policy in various respects, i.e.: it would put American foreign business corporations at a disadvantage compared with certain foreign manufacturers of the same products, who enjoy tax deferral under the laws of their respective countries, without any restriction on marketing their products in the United States; it would have an effect equivalent to a quantitative restriction on the import of such goods; and, since it discriminates against our own enterprises abroad on the basis of the location of their markets, it would weaken the U.S. position in insisting that American enterprises abroad be treated on a nondiscriminatory basis. Moreover, the Department is of the opinion that the existence of the safeguards included in the Trade Agreements Extension Act of 1951, as amended, should remove any need for further provisions against injury to American industry from increased imports.

The labor standards provision would disqualify an American corporation from the benefits of the bill if it operates in any less developed country during the taxable year under substandard labor conditions. Substandard conditions are defined as aggregate remuneration (including fringe benefits) which is below the minimum standards required under the laws of the country concerned, or, if there are no such minimum standards, below average standards prevailing for other employers in the same or in similar industries in such country, or below the standards generally prevailing in the industries of such country.

Serious difficulties would arise in the administration of this provision, particularly in countries where no adequately defined labor standards are established by law, and where the United States would have to determine, first, what are the average standards prevailing there, and second, whether the American corporation in question meets those standards. To do this in countries where adequate labor statistics do not exist would be difficult indeed. The task would be further complicated by the impreciseness of the bill's definition of the factors to be included in determining aggregate remuneration.

To the extent that enactment of this provision could be interpreted as the use of U.S. tax law to enforce labor standards in foreign countries, it may well be regarded by those countries as interference in their internal affairs and as an implication that they are not capable of enforcing their own laws. Also, the provision could be used by irresponsible labor and political elements as a means of harassing American employers.

Moreover, while primary responsibility for administering this provision would rest with the Secretary of Labor, it may be anticipated that our posts abroad would also bear significant responsibility in this area. In view of the serious complexities of administration noted above, additional personnel may well be required at our diplomatic and consular posts if this provision is enacted.

The Department of State urges, therefore, that the labor standards requirement and the trade protective provision be deleted from the bill.

The Department has been informed by the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

WILLIAM B. MACOMBER, Jr.,
Assistant Secretary
(For the Secretary of State).

OFFICE OF THE SECRETARY OF THE TREASURY,
Washington, June 13, 1960.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance, U.S. Senate,
2227 New Senate Office Building, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in response to your request for the Department's views on H.R. 5, the Foreign Investment Incentive Tax Act of 1960.

Section 2(a) of the bill provides for deferral of U.S. tax in the case of a domestic corporation which qualifies as a "foreign business corporation" (FBC). In general, FBC status is limited to corporations which derive at least 90 percent of their income from sources within countries designated by the President as economically less developed. It is only with respect to this income that tax deferral is allowed under the bill in its present form. Countries which may not be designated as less developed are specifically listed in section 951(e). Section 2(a) also contains a provision extending tax deferral to foreign branches of domestic banks. Under this provision the bank may elect to treat its foreign branch or branches as a foreign business corporation. In order to provide the Treasury with adequate time to develop the special rules needed in the case of branch deferral, the latter election does not apply until after December 31, 1962.

Section 2(b) of the bill contains three additional amendments concerning the application of tax deferral. First, section 243 of the code, relating to the dividends-received deduction, is a mended to provide for a 100-percent deduction (instead of the 85-percent deduction allowed under present law) in the case of dividends received from an FBC by a domestic corporation which has a stock interest of at least 80 percent. Where the stock interest in the FBC is less than 80 percent, the 85 percent dividends-received deduction under present law applies. The purpose of this provision is to approximate the tax burden applicable to foreign subsidiaries where the domestic corporaate stockholder has substantial control. Second, the bill amends section 543 of existing law, relating to personal holding company income, to make it possible for a cosely held U.S. corporation which is not otherwise classified as a personal holding company to operate abroad in less-developed countries through an FBC without liability for the personal holding company tax. Without this amendment, the FBC would be considered liable to this tax if its income consisted largely of dividends, interests, and other forms of investment income. Section 2(b) of the bill also adds an amendment of a technical nature to preserve the deferred income account in the case of certain corporate reorganizations involving an FBC.

Section 3 of the bill makes three amendments which for the most part relate to transfers to or from foreign business corporations. The first of these is an amendment to section 367 of the code, which requires the advance approval by the Treasury of certain transfers involving foreign corporations. The bill makes this requirement inapplicable in certain cases where transfers are made to or from an FBC. The second amendment makes the special excise tax provided by section 1491, relating to transfers of stock and securities to foreign corporations, inapplicable in certain cases where the property is transferred to a foreign business corporation. The third amendment relates to transfers of inventory to foreign business corporations and in this case also to foreign corporations generally.

As reported by the Ways and Means Committee on February 10, 1960, H.R. 5 provided for tax deferral on a worldwide basis. On revenue grounds as well as a matter of tax policy, the Treasury Department opposed the bill in that form. Before the House took final action on H.R. 5, the Ways and Means Committee approved three modifications of the bill. These changes are reflected in the bill now being considered by your committee and may be summarized briefly as follows:

(1) The operation of tax deferral was limited to income from sources within countries designated by the President as economically underdeveloped.

(2) The provision dealing with the so-called grossup of foreign taxes allowed as a credit in the case of a foreign business corporation receiving dividends from its foreign subsidiaries was eliminated from the bill.

(3) A provision was added in the bill to make ineligible for tax deferral any corporation which fails to meet the minimum labor standards of the country in which it operates.

As you know, the administration has urged that further steps be taken to encourage private investment in the less-developed areas abroad. In his budget message this year, the President recommended as an additional incentive that the U.S. tax on income earned in the less-developed areas should be deferred until repatriated. Since the bill is now limited in its application to profits derived in the underdeveloped countries of the free world, it is, in this respect, in accord with the recommendation of the President.

The so-called grossup provision removed from existing law, at least as far as FBC's were concerned, the defect resulting from the allowance of both a deduction and a credit for foreign taxes in respect of dividends received from a foreign subsidiary. While deletion of this provision from the bill tends to equalize the tax rate situation as between the foreign business corporation and the directly owned foreign subsidiary, it leaves unaffected the discrimination which exists between operations abroad through a branch of a domestic corporation not qualified as a foreign business corporation and the foreign subsidiary form of operation. Nevertheless, the Department has no objection to the elimination of the grossup provision from the bill, in view of the fact that the Ways and Means Committee in connection with H.R. 10859 and its companion bill, H.R. 10860, now has under consideration legislation in this area which would apply across the board to all taxpayers involved.

The addition to the bill of the provision which denies tax deferral to any corporation failing to meet the minimum labor standards of the country in which it operates appears undesirable from the standpoint of sound tax administration. While sympathetic to the concept of international fair labor standards, the Treasury believes that the adoption of a provision which would disqualify a corporation for any year in which it operates in a less-developed country under substandard labor conditions is out of place in a tax measure and may lead to litigation of difficult, complex, labor standard issues before tribunals which are not equipped to handle such problems. It is clear, for example, that the Treasury Department itself cannot administer such a limitation. For this reason, the amendment places primary responsibility in this area with the Department of Labor.

We would like to call your attention to another provision in H.R. 5 which the Department has opposed as being difficult, if not impossible, to administer effectively. This provision appears in section 951(a)(3) and requires that no foreign business corporation will qualify for tax deferral if it derives "more than 10 percent of its gross income from the sale of articles which are sold by it for ultimate use, consumption, or disposition in the United States." This language is vague and susceptible to various interpretations. It involves the Department in difficult tracing problems and could lead to a considerable volume of litigation.

During the course of the consideration of H.R. 5 your committee, it is anticipated that further study will be given to the labor standard and import provisions as well as to certain technical problems which exist in the amended bill. In this connection, the Treasury Department will be happy to cooperate with the committee and its staff.

While the estimates are exceedingly difficult to make, it is estimated that enactment of H.R. 5 limited to underdeveloped countries will involve a revenue loss ranging from $30 to $40 million annually.

The Bureau of the Budget has advised the Treasury Department that there is no objection to the presentation of this report.

Sincerely yours,

JAY W. GLASMANN,
Assistant to the Secretary.

Senator LONG. There will be other Senators arriving at these hearings as we go along.

Since Senator Javits has another meeting he has to attend I will call Senator Javits to speak on this bill. We are pleased to have you here, Senator Javits.

STATEMENT OF HON. JACOB K. JAVITS, U.S. SENATOR FROM THE STATE OF NEW YORK

Senator JAVITS. Thank you very much, Mr. Chairman. My purpose in appearing today is twofold. First, it is to appear in behalf of H.R. 5 offered by the colleague of the chairman. I know of few bills as important to the foreign policy of the United States in the ultimate as this one. Second, Mr. Chairman, it is to emphasize and support certain suggestions—I emphasize that word "suggestions," because I want to do nothing to bedevil H.R. 5—in my own bill, S. 3251. I have introduced this bill to carry out some of the major recommendations in the report by Ralph I. Straus, special consultant to the Under Secretary of State for Economic Affairs in April 1959 entitled "Expanding Private Investment for Free World Economic Growth," a report available to this committee and prepared pursuant to an amendment of the Mutual Security Act which I offered.

Now, Mr. Chairman, as to H.R. 5, I think it is absolutely essential to the foreign policy of this country for this reason: We are not doing enough, notwithstanding the enormous burden we are carrying and the enormous job we are doing, we are not yet doing enough in the less developed areas both from the point of view of bilateral arrangements for the United States and from the point of view of international arrangements, even including those in the new International Development Association when that is fully authorized, to keep up with the responsibility which we have in those areas.

Now, Mr. Chairman, I note that both of my distinguished colleagues on the dais at the moment are members of the Foreign Relations Committee. We all know from hard experience that the theory that economic well-being is the only thing that will keep the people in the free world has been proven many times to have not 100 percent validity, but we do know that a people which is under privation, a people which is lagging materially in means of communication, in decent standards of living, and health and sanitation and more modern means of communication is a far more susceptible people. We have infinitely more chance for freedom with a people which is making material progress. This time and experience have certainly demonstrated. So, Mr. Chairman, when we find that progress is inadequate, as it is in many areas of the world because of the absence of enough capital investment, we certainly ought to do everything we humanely may in order to facilitate the adequacy of capital investment, and the big unused area in a very substantial way is the area of private investment from the United States.

Aside from all of the other reasons of international balances of payments, of the stimulation of our economy, of the certitude that we will have to take more imports with industries adversely affected by imports and the enormous problem in that regard which can be helped by exports—we are all familiar with those enormous problems—one thing is very clear. That is that private investment represents the most satisfactory, the most potentially great source of additional investment capital for the less-developed areas of the free world.

Now, Mr. Chairman, I speak to this matter with, I must say, real experience. Not too many times can we say that as Senators, but I was chairman of the Foreign Economic Subcommittee of the Foreign Affairs Committee of the House during the last 2 years that I was there, 1952 to 1954, and I conducted a series of hearings on this very subject myself as chairman. It was crystal clear to me that what would most stimulate oversea private investment, what we wanted most was private tax treatment. This was the fundamental principle considered. I would hope very much that the committee staff will review the record of the hearings which were conducted by my subcommittee, and I am confident you will find that borne out as well as by the report.

Now, it is my judgment that with intelligent tax handling we can triple the rate of private investment in productive industries in underdeveloped areas of the free world moving from this country at its present rate of $500 million per annum to at least a billion and a half dollars per annum, and I think H.R. 5, Mr. Chairman, can go a very long way to doing this.

Now, Mr. Chairman, I would like to give the committee just one figure which I think might be interesting. From 1950 to 1958 $10 billion flowed back into the United States as earnings on private oversea investment, which is a net gain of $7 billion over the direct outflow during the same period.

To show how stable these earnings are from the point of view of American investment, in 1958, when U.S. exports slumped by $3 billion, our earnings on private oversea investments held steady at $2.2 billion. It was the one thing that was helpful to a very serious situation we then found in our international balance of payments. The best estimate that I have had is that it enabled us to keep it from slipping yet $1.1 billion further than the $3.8 billion it did slip in that very serious year for us, because of the fact that we had this backstop of oversea private investment.

Now, so much for the Boggs bill and Representative Boggs who is one of our eloquent Congressmen is here and I am sure will testify to the details of that.

I would like to spend 2 minutes on what I hope this committee would consider as suggestion from the Strauss report, selective suggestion. I have not by any means tried to recommend all, because I know it is just impossible to do a big job on this thing now. As I say, first and foremost I hope the committee will report out H.R. 5.

But as a suggestion to be considered by the committee for buttressing H.R. 5, I make first this suggestion: We have a cross-investment provision in my bill, which allows the investment of earnings from developed countries in underdeveloped countries.

Now the Boggs bill pretty much confines the whole operation, in other words, reinvestment of earnings to the underdeveloped countries group, whereas we propose to broaden the right to reinvest earnings from developed areas into less developed areas.

That will add, we estimate, about $700 million a year to the potential in oversea private investment in earnings from developed areas which can move into investments in less developed areas. I strongly recommend that the committee look that over carefully, if the committee is of a mind to add anything to H.R. 5, and again I repeat, the most important thing is to get started in this field.

Another thing would be to extend the tax deferral benefits of the Boggs bill to branches of insurance companies as well as banks.

Now the Boggs bill provides for banks but does not provide for insurance companies. I mention that because a number of major insurance companies are interesting themselves in the foreign private investment field.

I have personally talked with the president of one of our very largest insurance companies—a great mutual company—which has a company policy of looking into that field very carefully and it certainly might be advantageous to add them to the eligibles as well as banks.

Another suggestion which I make is to consider treatment for capital losses in these foreign business corporations, which are the type of corporation which will get special tax treatment under the Boggs bill, like the treatment which we are extending in the Small Business Act to encourage small business investment. That is to allow those losses to be passed along to the stockholders and taken by them as losses.

Again this is to improve the likelihood of investment in high risk areas because that is after all where we want this investment to go.

A third suggestion is to allow tax deferral for services and property exchanged for stock in one of these foreign business corporations which again qualifies for special tax treatment.

Finally, to grant authority to the President to enter into foreign tax agreements involving reciprocal tax credits and these tax deferrals.

Now, Mr. Chairman, of all of the suggestions which I have made, the most important is the cross-investment idea, permitting earnings from developed areas to move into investments in less developed areas and yet be protected by the tax deferral features of the bill.

I close, Mr. Chairman, by again repeating the critical and important thing to American foreign policy—and I think it is more fortuitous that a number of the members of this committee are members of the Foreign Relations Committee—is to pass the Boggs bill, if humanly possible, at this session of the Congress. The other suggestions, I think, will improve it, but I believe they need to be considered by the committee in the light of its view that it does or does not wish to amplify the Boggs approach any further at this session.

I thank you, Mr. Chairman.

Senator LONG. Thank you very much, Senator Javits.

Do you have any questions?

Senator CARLSON. No, but I think I should say we appreciate the testimony of the distinguished Senator from New York. He has a great background in this field and therefore I believe the testimony is very helpful to us.

Senator JAVITS. Thank you. May I put this statement in the record?

Senator LONG. Yes.

(The statement referred to follows:)

STATEMENT OF SENATOR JACOB K. JAVITS (REPUBLICAN, NEW YORK), ON H.R. 5 AND JAVITS AMENDMENTS

Mr. Chairman, I am appearing here today in support of my substitute for H.R. 5, which I introduced on June 2, and which incorporates substantially all the changes I proposed in S. 3251 which I introduced on March 22, 1960, which was also referred to this committee.

First, I strongly support the provisions of H.R. 5, and the economic and political philosophy on which it is based. My bill as a substitute is in no way in derogation of H.R. 5: it makes certain additions which are intended further to implement the bill's basic purposes.

Our objective should be to triple the current level of United States new direct foreign private investment in productive industries in underdeveloped areas of the free world from $500 million annually to at least $1.5 billion yearly. I believe that the Senate should proceed promptly to implement and thus strengthen H.R. 5, so that every practicable incentive will be provided to such U.S. private investment. We must stimulate a tremendous expansion of U.S. private investment in these very areas to provide the additional capital necessary to help the economies of newly developing countries grow so they can satisfy the unsatisfied demand for improved living standards by more than 1 billion people. The needed capital is not being adequately supplied now by private investment plus bilateral and international economic aid and technical assistance. Also, if the Congress is to look forward to a time when it might safely phase out some economic aid from the Federal Government to these areas, it must take the necessary first step now.

Measures to expand direct U.S. private oversea investment should be classified as long-range insurance against any prolonged deficit in our balance-of-payments picture. From 1950 to 1958, $16 billion flowed back into the United States as earnings on private oversea investment—a net gain of $7 billion over the direct outflow during the same period. In 1958 when U.S. exports slumped by $3 billion, our earnings on private oversea investment held remarkably steady at $2.2 billion and alone kept our unusually large balance-of-payments deficit from dipping an additional $1.1 billion.

Private U.S. investors can advance U.S. foreign policy through stimulating the growth of the private sector of their economies in the newly developing countries, which must be strengthened if free political and economic institutions are to survive. This legislation is designed to project the best elements in U.S. private enterprise into the less developed areas introducing their peoples to the competitive energy, initiative, inventiveness, technology, managerial skill and credit that we have to offer in such abundance, while these investments aid in the growth of new mass production and consumption in areas eager for U.S. goods.

The Boggs bill as it was introduced was truly a pioneer piece of legislation.

My substitute incorporates a number of important recommendations made in the Straus report—the report of Ralph I. Straus, special consultant to the Under Secretary of State for Economic Affairs on "Expanding Private Investment for Free World Economic Growth," issued in April 1959. This report was the result of an amendment to the Mutual Security Act offered by me in 1958. The report urged the creation of foreign business corporations along the lines contained in the Boggs bill, in addition to a number of other basic provisions. The most important of these additional provisions which my substitute incorporates is the so-called cross-investment provision; it permits the investment of earnings on U.S. private foreign investments from the more highly developed nations in the eligible underdeveloped countries with the benefits of tax deferral.

As passed by the House of Representatives, H.R. 5 supports the establishment of foreign business corporations in less developed nations and provides for a system of tax deferrals on their profits so long as the income is reinvested in the same kind of underdeveloped areas in the free world. The Boggs' proposal can be measurably strengthened at this point, in my opinion, if a cross-investment provision is included whereby the payment of taxes on profits from all oversea investments is deferred so long as these same earnings are reinvested in less developed areas. I estimate that this section—a key part of the substitute bill offered June 2—could make available a potential $700 million a year additional in new investment capital for Africa, south and southeast Asia, the Middle East and Latin America.

The other significant additions which my substitute bill would offer, supplementing the provisions of H.R. 5, including the following:

(1) Extending the tax deferral benefits to branches of insurance companies as well as banks; the House version excluded insurance companies which have long been regarded as a most important source of capital investment.

(2) Permitting writeoffs on capital losses of FBC's and their subsidiaries in less developed nations, similar to the provision in the Small Business Act, and allowing losses in such areas to be passed along to stockholders and taken by them; both would increase the amount of investment in admittedly "high risk" areas of the free world where internal upheavals are not unknown.

Proposal (2) would do much to remove a major fear of U.S. private investors that a political upheaval may hand them a total loss on investments in a less-developed area. This amendment should encourage them to take that risk more often, knowing that it can be written off against earnings on successful investments, thereby encouraging dollar inflow into potentially valuable enterprises which will help in the development of these areas and actually contribute to political stability.

(3) Allowing tax deferral for services and property exchanged for stock in an FBC.

This provision has the psychological benefit of aligning U.S. business in close partnership with local enterprise in a less-developed foreign country and is an investment which involves no capital outflow from the United States, but nonetheless does yield a dollar return, again brightening our balance of payments picture.

(4) Granting authority to the President to enter into foreign tax agreements involving reciprocal tax credits and tax deferrals.

I have incorporated in my substitute bill the provision adopted during House consideration of H.R. 5, not originally included in S. 3251, my own bill, which would bar deferral benefits to any corporation which operates plants in these underdeveloped areas with substandard conditions for its labor force. By all means, the Senate should preserve the Boggs bill requirement that the U.S. Secretary of Labor may investigate and determine whether or not workers employed at such plants are being paid less than the minimum standard required by law—or where such minimum standards do not legally exist, whether the pay is below the standard enjoyed by average workers in a locally owned plant in the same line of work, or in a closely related field.

As the Straus report made very plain, expanding U.S. private investment is clearly one of the prime national objectives of U.S. foreign policy for these dollars represent the "seed capital" which can lead to the growth of stable economies based on the private enterprise system. Our national objective would be seriously impaired if we failed to provide adequate safeguards in this legislation against the possible exploitation of the local labor force in the less developed areas—through payment of low wages or by tolerating unsafe, substandard working conditions.

It is my hope that the Senate Finance Committee, recognizing the complex nature of the legislation before it in H.R. 5, will view with favor the provisions of my substitute bill as another step forward in this important effort to expand the efforts of the private economy in implementing our foreign policy for peace.

(At the direction of the Chair the following report from the Department of the Interior commenting on the amendment proposed by Senator Javits, was incorporated in the record:)

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 13, 1960.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance, U.S. Senate, Washington, D.C.

DEAR SENATOR BYRD: This is in response to your request for a report on amendments (in the nature of a substitute) to H.R. 5, a bill "To amend the Internal Revenue Code of 1954 to encourage private investment abroad and thereby promote American industry and reduce Government expenditures for foreign economic assistance."

The bill does not appear to relate to any matter within the jurisdiction of this Department or to affect any matter upon which the Department would be in a position to give helpful information or advice. Accordingly, this Department has no comment to offer with respect to the merit of the purpose or provisions of the bill.

We greatly appreciate your bringing this matter to our attention, and welcome the opportunity to submit recommendations on any measure where the activities of the Department may possibly be involved or where its experience may possibly be of value.

Sincerely yours,

D. OTIS BEASLEY,
Administrative Assistant, Secretary of the Interior.

Senator LONG. I call the sponsor of this bill, Congressman Boggs, who sponsored H.R. 5, and who very ably represents the Second District of Louisiana.

Congressman Boggs, we are very happy to have you here today; please proceed to explain this bill in your own fashion.

STATEMENT OF HON. HALE BOGGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. BOGGS. I am very happy to be here with the chairman, Senator Long, who very ably represents the whole State of Louisiana.

Mr. Chairman, and members of the committee, the bill before the committee this morning is the result of a good many years of intensive study of a problem which most people in the legislative and executive branches of the Government have been aware of since the very inception of our policy. Since the war era when the United States, whether we liked it or not, became the leader of the free world.

We have had all sorts of expressions over these years over substituting the private sector of the economy for the public sector, we have had expressions of trade, not aid. We have attempted in any number of ways to reduce the government-to-government programs, such as the foreign aid program and others, and to use this weapon which has been so magnificent in developing our own economy.

That is private enterprise meeting some of these problems elsewhere on earth.

Like so many other things, I backed into this matter. We were creating some subcommittees on the Ways and Means Committee several years ago, and I offered a resolution to set up a subcommittee dealing with the Internal Revenue Service.

That resolution was adopted and my distinguished colleague from Virginia, Mr. Harrison, a member of our committee, offered a resolution creating a subcommittee to deal with foreign-trade policy. That, too, was adopted, and then we created one or two others.

Well, as fate would have it, I ended up as chairman of the Subcommittee on Foreign Trade Policy.

And this is really how H.R. 5 came to be.

I felt that having the chairmanship of such an important subcommittee, Mr. Chairman, that I had better start doing something.

So I called a hearing in Washington in the latter part of 1958, sent out notices to business groups and labor and agriculture groups, throughout our country. They came in and they made recommendations on the general proposition of how do you increase the participation of American business in the problems that we face abroad.

I found these recommendations quite interesting, but I still wasn't satisfied with these hearings, and we decided we would go out and have a look.

So the subcommittee first went to Latin America. It was my feeling that if we were to take a real look at this thing, the first place we ought to know about were the countries in our own hemisphere.

So we spent about a month, which of course is not a lot of time, looking at a problem of this magnitude, but we spent about a month in the principal countries in Latin America. Then we came back and tried to digest what we had learned, and I had some other preliminary meetings in Washington and on the 1st day of last year, the 1st day of this session, the 86th Congress, I introduced this bill.

This bill was designed to meet these fundamental problems. In the course of our trip to South America, Mr. Chairman, I saw some things that to me were quite inspiring. No. 1, the notion that American business abroad today is there for the purpose of exploitation or to put it another way, to make a fast buck and a fast getaway, just isn't so.

This may have been true a long time ago, I don't know. But as a matter of fact, the whole capitalist system, for that matter, has suffered a tremendous metamorphosis in the last hundred years, and if we applied the standards that were applied in our domestic economy, say, at the turn of the century, we would not recognize our system.

There might even be some validity in some of these ridiculous claims made by Mr. Khrushchev about capitalism.

What I discovered was that our people, working abroad, by and large, were dedicated people, and I am sure, Mr. Chairman, that you and your associates have discovered the same thing.

In addition to that, I found that a lot of these old shibboleths that make the rounds, just are not so. For instance, the one that investment means export of American jobs, this is one you hear quite frequently, Mr. Chairman, I would like to compliment you, I read the debate in full conducted in the Senate a few days ago on H.R. 608, and I felt that your participation in that debate, if I may say so, was very brilliant, particularly on that point. We had a witness before our committee who described this thing as plowing the back 40 and rather than the export of any jobs, this is something that we don't have, and let me give you an example.

Take Brazil, to export automobiles to Brazil is a very difficult proposition.

Brazil has tariff walls, export quotas, import duties, that are fantastically high. I would hope that these would be reduced and I would say and we have attempted in every way possible to say to these nations, "Now, look, if you expect some type of liberal trade treatment from the United States of America, you must give liberal trade treatment in return therefor."

But nevertheless they come back and they point out their great difficulties in obtaining dollars, the problems surrounding the export of coffee and so on, and they try to justify these fantastic tariff barriers and import restrictions that they have, so that, Mr. Chairman, the idea that we would have this automobile market under existing conditions is just in many cases a vain and fruitless hope, so that when Mr. Kaiser goes down and builds a plant there, he is really not taking any jobs away from anyone in the United States. Quite the contrary, he is giving jobs in the United States, because he imports into Brazil from the United States all of the machine tools, all of the equipment required to fabricate this vehicle, and in addition to that, being on the scene he is normally in a position, and I use this just as a general illustration to negotiate for the importation of certain parts that may be required, and so on.

That is just one example.

To give you another example, Sears' Roebuck opens a store in Peru, in Lima, let us say, I mention Lima because I happen to have visited their store in Lima. Here was something that just did not exist. It wasn't there. The only way they could reach this market was to go there. The notion that they could do it by sending out a Sears' Roebuck catalog, for instance, was just not practicable.

So here is an operation now in Peru where great many Peruvians are employed, in the manufacture and fabrication of articles, which are sold to the Peruvian economy, that would not be sold otherwise. The jobs they have would not be created otherwise and the need for foreign aid or development loan participation, export-import bank loans, would be increased, not decreased.

This enterprise pays taxes to the Government of Peru. It provides employment to the people of Peru. In every sense of the word it is a good thing, and in addition to that from the philosophical point of view, it shows the American enterprise system in operation.

What the Communists like to do is picture us as being a vast, wealthy, greedy nation, unconcerned about the poor people of this earth. Here we sit, say the Commies, rolling in wealth and affluence and abundance, completely totally unconcerned about anybody else on earth. So all of a sudden in Peru someone walks into a nice clean store exhibiting merchandise made in Peru, with everybody in the store being a Peruvian selling the merchandise, and here is American enterprise on exhibit. It is then, however, very difficult indeed for the Communist propaganda, which, incidentally, has been quite rampant in Peru, to have much effect.

I could go on with these examples.

I would say one other thing, Mr. Chairman. That as our Americans become engaged in business operations in these nations, regardless of where they may be, they become interested in the problems that confront these nations. They become much better ambassadors really than our official representation.

This is not said with any reflection upon the official representatives at all, because I am certain that most of these people, all of them for that matter, are completely dedicated people.

But these business people begin to have a stake in the economy of the host countries. I remember the last Mr. Steele, who was president of the Pepsi Cola Co., telling me about the operation of Pepsi Cola in Egypt. We were talking about the rise of Colonel Nasser and the spread of Nasserism throughout the Middle East, and I said "How do you function with all of this political instability and this conflict between the East and the West?" He said, "Well, the fellow who has a Pepsi Cola dealership, overnight became a disciple of free enterprise, and the people who work for him become disciples of free enterprise and the Communist has a tremendously difficult time trying to convert this fellow to something that they say will give him a better way of life."

I cite that again as an illustration of what this proposed legislation seeks to do.

Well, one other thing then on the export of jobs problem which was discussed in the debate on H.R. 10087. If you will take a look at the studies that have been conducted, and they are very intensive studies, the places that have the most American investments are the places that buy the most from the United States. This is an interesting thing, but it almost invariably follows. It means that where you have an economy that is developed it is better able to acquire the products of industry.

Mr. Chairman, you remember in your own lifetime the difference in the economy of our own State of Louisiana. We today are tremendous customers. Twenty years ago, or thirty years ago when we lived on a very subsistence margin we were anything but customers.

Well, now, in a sense this describes the world today. The areas that have money buy things. Those that don't have money don't buy anything.

Now, let me demonstrate that to you very graphically. Here is a table in the hearings before the Ways and Means Committee, which shows the per capita income of nine countries compared to the capital purchases of U.S. goods in 1957, and here it follows, Canada, Great Britain, France, Germany, Italy, Japan, Egypt, India, Pakistan, Canada, which has the largest U.S. investment buys the most from the United States by a tremendously large margin, you see.

Senator LONG. That table will be incorporated in the record. I think we can also incorporate by reference these hearings. If your committee can make it available, we will save a little printing costs.

(The table referred to follows:)

Per capita income of 9 countries compared to per capita purchases of U.S. goods, 1957

	Income	Purchases from the United States
Canada	$1,436	$234.0
Great Britain	958	21.0
France	846	13.0
Germany	742	18.0
Italy	404	14.0
Japan	254	13.0
Egypt	109	1.5
India	61	1.1
Pakistan	52	1.3

Source: "Tariffs and Trade," May 25, 1959. Published by the U.S. Council of the International Chamber of Commerce. All figures converted at official exchange rates.

Mr. BOGGS. I won't bore the committee by going on with this, but the point is that this argument that anyone seeks to export jobs from the United States, it is just not so.

Now in your reply, in your debate on the Senate floor, you made reference to the fact that these were problems involving tariff consideration, quota consideration, and not matters which fit into the investment of American capital abroad.

In addition to that this legislation is limited to the so-called underdeveloped countries, so that the argument about Western Europe does not apply.

I personally would like to see the recommendation of Senator Javits put into effect. Whether or not they can be done, I am not prepared to say.

Mr. Chairman, what this bill seeks to do is just one thing, and that is as best we can do put the American doing business abroad under the American flag on somewhat the same plane that we put the American doing business abroad under a foreign flag.

This is a strange thing in our law. If I go to Panama, let us say, and organize a foreign base corporation, I can operate all over the world with subsidiary corporations from that Panamanian corporation, and until and if I repatriate these funds to the United States, I incur no tax liability under U.S. tax laws.

But, on the other hand, if I want to operate under the flag of the United States as a branch of a U.S. corporation, and if I have the identical corporate setup, except for the paper organization in Panama, then I am subject to the regular 52-percent tax regardless of when these funds were repatriated.

Now, in addition to that, practically every trading nation on earth, led originally by the British, has established what, for lack of a better name, they call an overseas trading corporation.

So that the American businessman, No. 1, finds himself in a completely inequitable position insofar as his fellow American businessman is concerned who organizes a foreign subsidiary, and, of course, from the competitive point of view of the foreigner, with the other nation who has given this tax deferral, he is in an even worse situation.

One can't change from a branch operation to a foreign subsidiary operation without incurring the liability of the exchange of corporate form. So that a company which went in early in Latin America, the Singer Sewing Machine Co., let us say, comes to my mind, is therefore placed in a very bad competitive situation insofar as the company which comes in, let us say, today, and sets up this type of foreign subsidiary.

So from the point of view of all the equities in the thing, what we hope to do under H.R. 5 is to set up what is called a foreign business corporation, which is surrounded by all kinds of safeguards—for instance, none of the manufactured items or proposed items, whatever they may be, manufactured abroad can be sent back to the United States, if they exceed 10 percent of production. This, of course, does not apply in the case of a foreign subsidiary. It can establish a plant in Tokyo or Hong Kong or wherever it may be, and if it is convenient, and if the domestic market is such, it can reexport back to the United States. Under this proposal the American foreign business corporation cannot.

The business community was polled on these proposals in a number of ways.

Before the hearings in the Ways and Means Committee we sent out a questionnaire to 5,000 organizations in the United States. Almost without exception they came back favoring H.R. 5. I think we had something like 300 requests to testify before the Ways and Means Committee. We cut that down to a very small number. None of the witnesses before the Ways and Means Committee appeared in opposition to this legislation.

Mr. Strackbein, who represents some of the so-called protectionist groups, stated some questions in his mind with respect to House Resollution 5 but he did not oppose the legislation.

The American Farm Bureau, the other farm organizations, the AFL-CIO, the U.S. Chamber of Commerce, the Manufacturers Association, the organizations interested in fostering trade with other areas of the world, all over our country, have appeared in favor of this proposed legislation.

This legislation, Mr. Chairman, is a very modest approach to a very difficult problem. I forgot to mention one other thing. The Commerce Department also conducted a series of inquiries on this thing, and the answers that came back were very interesting. They appear in the hearings. Again the reply was overwhelming that tax deferral was a device that was needed for the encouragement of American enterprise in the free world.

Senator Javits made reference to a study by Mr. Straus—which came about through his amendment to the mutual security program which said that we should give greater emphasis to the private sector and Mr. Straus was appointed chairman of that committee. Tax deferral was one of the essential recommendations of that study.

In addition to that, the Commerce Department under a very prominent group of business people, made a similar study and they came up with similar recommendations.

This bill has been limited exclusively to the so-called underdeveloped nations on earth. It, at most, is a very modest and minimal approach to a very difficult problem. Its adoption, I think, would be the signal to the responsible business community that the Government does believe that the private sector, that private enterprise should have a part in the maturing American economy. For us to fail to enact it would be just the opposite signal and I would hope, Mr. Chairman, that the Senate committee, this great Senate Committee on Finance, would give favorable consideration to this legislation.

Senator LONG. Thank you, Congressman Boggs. Let me ask you this: How do you go about separating the less-developed countries that would be eligible for this type investment from those that are more maturely developed?

Mr. BOGGS. Well, it is specifically set out in the legislation, the countries are named. Roughly speaking the developed areas are all of Western Europe, Canada, and Japan. The rest of the world, again roughly speaking, are defined as the underdeveloped areas. The Soviet bloc, of course, is specifically excluded.

Senator LONG. And you would permit 10 percent of manufactured goods to be shipped back to this country.

I would assume they would be subject to all the restrictions.

Mr. BOGGS. Tariffs, quotas, absolute quotas, or whatever other limitations we might have.

Senator LONG. My reaction toward other nations industrializing and becoming competitive is that we should not be afraid. We should want that to happen and when it happens we should not be afraid to go ahead and give additional protection to our domestic industries if they need it. At present some of our industries have no competition and need no protection from a foreign competitor but when the day comes that they do need it, we ought to be willing to give it to them.

I would just be curious to know your reaction to that.

Mr. BOGGS. I think that is a liberal trade policy, what you just said. People, in my judgment, get confused in their thinking when—nobody believes in free trade per se. Liberal trade on the other hand, as I see it, means ability to adjust to changing conditions in the world. Now this means that you must have the proper machinery, you must be willing to face up to problems, and the notion that an industrialized nation takes away your markets, I don't subscribe to at all, just as you said a minute ago, Mr. Chairman.

As a matter of fact, in a sense you build up markets that way. You see what is happening in Europe today is that the mass production economy which we discovered in our country first is now finding its way to Europe, and the Common Market which has been established in Europe is becoming one of the great trading regions on earth and you had two things happening, you had the competition to get into the export market that Europe provides and it becomes greater because there is more demand for things and also to get behind whatever protective devices Europe establishes so they won't have so many imports.

Well, I don't know whether I have answered your questions or not.

Senator LONG. Thank you very much, Congressman Boggs.

Senator Carlson?

Senator CARLSON. Congressman, I appreciate very much your statement here this morning. I wonder if your study does not indicate or prove that American business has real competition in, for instance, South America, as a result of the salesmanship, and the liberal loan policies of, well, let's say Germany?

Mr. BOGGS. Surely.

Senator CARLSON. And probably the Soviet Union. Do you not feel that it is essential we do something like this if we are to keep our place in this field?

Mr. BOGGS. No question about it, Senator. This is the other side of the coin, you see. Unless we do something along these lines, the competition that has developed to American business, particularly in Latin America is going to be quite devastating.

You mentioned something that I didn't talk about in my original statement, and this is these credit guarantees, all through Latin America, Germany, England, and others, will give their own firm a guarantee against any loss that may occur as the result of a bad risk and they will provide for very long terms and easy payment. Our people have to compete against that sort of proposition.

Senator CARLSON. Congressman, I just wish to state that Kansas, for instance, manufactures and produces and sells a large number of light-type aircraft, particularly the Beech Aircraft, Cessna Aircraft, and they have a very large market in South America and I have visited with these people and have discussed with them on many occasions and I find discussing their problems as well as the problems of others who are trying to sell in that country we do have real competition at least from the liberal loan policies that you just mentioned and I appreciate your statement.

Mr. BOGGS. No question about that.

Senator CARLSON. Yes, sir.

Senator LONG. Senator Hartke?

Senator HARTKE. I would like to congratulate you on the fine statement and the leadership you have given us, Congressman.

I think it again demonstrates the fine work you have been doing not only in this field but other fields on which I have had occasion to be on your side in the Senate. I would like to ask you a question about the Treasury position in which they stated or estimated, although they say it is exceedingly difficult to make an estimate that this will cause a revenue loss ranging from $30 million to $40 million annually.

In your opinion, do you feel that this type of legislation warrants a loss of that revenue?

Mr. BOGGS. Well, I don't think there is any question about it. In a sense that is misleading, No. 1—I have just seen this letter, it is apparently dated today.

Senator HARTKE. Yes.

Mr. BOGGS. Mr. Glasmann in the letter says that it is difficult to make an estimate, and it is very, very difficult to make an estimate.

Senator HARTKE. Well, assuming his statement is true, do you feel that by development in these underdeveloped countries of markets we would, in the long run, be able to reduce substantially the foreign aid contributions that we make to these countries.

Mr. BOGGS. Well, Senator, this would really—this is only a drop in the bucket, assuming that this figure is accurate.

Senator HARTKE. That is right.

Mr. BOGGS. The recommendations for foreign aid this year run something slightly under $5 billion, and $30 million as to $5 billion is almost zero to $5 billion.

In addition to that, it is my considered judgment that this program will produce revenue for the United States rather than lose it.

The incident that Senator Carlson gave here a moment ago is a good one. If we lose all these markets, then this investment income that Senator Javits was talking about, will be lost to the United States. You heard the figure that he gave as to the amount of income coming back to the United States as the result of our investments abroad. This is all taxed; if it comes in corporatewise at 52 percent, if it comes in individually, up to the effective rate of whatever it is, 87 percent, depending on the bracket that you are in, so that the amount of money involved in the other way, the reverse way, in my judgment, is tremendous.

Not only that, we are not talking about a tax loss, we are talking about tax deferral. When this money comes back to the United States, it, too, will pay the going rate, whatever it is.

Senator HARTKE. Doesn't the general principle, Congressman, of this bill, which was passed by the House Ways and Means Committee or the one introduced by you in its original conception, really carry out the recommendation of the President in regard to this type of policy?

Mr. BOGGS. It most certainly does. The President has talked about this for years and mentioned it specifically in his message to Congress in January.

Senator HARTKE. And he recommended specifically that additional incentives be given similar to what this bill attempts to do, isn't that right?

Mr. BOGGS. I would say that this bill is minimum.

Senator HARTKE. A minimum approach to what he recommended.

Mr. BOGGS. Right.

Senator HARTKE. That's right.

And it is designed for economically less developed countries. Isn't that right?

Mr. BOGGS. By specific language.

Senator HARTKE. Yes. In regard to that, the House Ways and Means Committee in their report carried separate views of one Democrat and some Republicans which I think in summary could be said to imply, at least, that this is a good idea but let's not do it now, isn't that right?

Mr. BOGGS. That is right. Or that we don't go far enough.

Senator HARTKE. Or that you don't go far enough.

Do you feel we have to make a start some place?

Mr. BOGGS. Well, if we don't make a start before long, we will be out of a lot of these markets in my opinion, Senator.

Senator HARTKE. There is some contention by some people, and I think with honest feeling, that it should not be done in this session of Congress, that additional study should be given. Would you care to express an opinion upon that?

Mr. BOGGS. Well, from my own point of view, I have never studied anything or has any committee studied anything as thoroughly as this. Not only the subcommittee but the full committee. We had extensive hearings in the House. Then we have met in executive session on this bill on two occasions. On one occasion we spent 2 weeks in executive session, writing this bill.

So this is not a piece of legislation that has not been very thoroughly considered. It has. I am sorry that it did not come to the Senate before it did, but it has been well considered.

Senator HARTKE. In the long run, isn't this designed to cut down on the foreign aid and the amount of grants specifically to be given to the underdeveloped nations of the world?

Mr. BOGGS. Well, the whole objective of the bill, Senator, is that. After all what is involved in the world today, we are in a conflict with communism. What is communism? Communism is a government program, government industry, government operations. This bill seeks to say "Well, now, our secret weapon is the private enterprise system and if the whole thrust of our operation abroad is to be government to government, then we, too, in a sense are doing the same thing that the Communists are doing.

Senator HARTKE. Isn't it true if we have these investments in these countries that the mutuality of interest between the two countries will give us a closer tie than all the gifts and grants that we can give?

Mr. BOGGS. There is no question about that being so.

I get back to home base. Look at the situation between us and Canada. We couldn't have a better situation, and to give you the converse of it, when you get into a conflict involving these trade matters, then they reflect themselves in the international scene. The best example that comes to my mind is our other neighbor to the south, Mexico which is also a very fine friend and a good customer. We got into an argument with them about shrimp and the way you could take shrimp so we end up in an international conference in Geneva and Mexico becomes the weapon by which we lose our whole argument.

Senator Long and I are trying to work out an agreement with Mexico on shrimp.

Senator HARTKE. I have no further questions.

Senator LONG. Before you conclude, Congressman Boggs, I must say that I was very favorably impressed by one of the Sears, Roebuck operations that I saw. I refer to the one I saw in Brazil. A popular item to be purchased in Brazil is a ladies' purse. It can be purchased cheaper there than in the United States. Curiously though, you can buy a purse cheaper in a Sears store than at the plant which manufactures it. The reason is that at the plant the system of haggling over the price still exists. The natives start with one price and one attempts to bargain with them until the price is lowered. The time spent haggling on prices winds up costing them something. Perhaps they don't realize it, but that is a waste of manpower—all that haggling—compared to a one-price system where the basis for the purchases is volume sales. So I will say our people, particularly Sears, Roebuck will teach the Brazilians how to do business, and also how to work on a small margin with the volume sale which makes it possible to the rank and file of people to participate in all the fruits of free enterprise.

Now, if we can break down some of those ancient practices that retard economic development and the welfare of the masses under the capitalistic systems of other countries it seems to me we are making much more of a major contribution, more than by this giveaway stuff which half the time does not wind up with the other people.

Mr. BOGGS. Mr. Chairman, you stated that eloquently. I had forgotten about the fact when you normally went into a store everywhere else in the world, you haggle about everything. There was no set price. You spent all day coming to an arrangement on what you would pay for a lady's purse, let me say and I think if we can encourage this thing, you see, in Latin America and in the Middle East and in the Far East, we have the Communists beat. But we are not going to beat them simply by a foreign aid program.

Senator LONG. Why do you think that this simple change in the tax laws, would stimulate any substantial amount of investment recognizing that these companies can set up foreign subsidiaries under the present law.

Mr. BOGGS. Well, I think No. 1, that this would have a tremendous psychological effect. It gives official recognition to the fact that the American business community is a coagent, so to speak, with the Government in this battle. No. 2, it permits these companies to move about with the American flag, and this means a great deal.

No. 3, in the case of some companies, which are frozen into this position now which is a very bad competitive situation, they can get out of that freeze and operate as a foreign business corporation.

Senator LONG. Senator Frear, any questions?

Senator FREAR. Thank you, Senator. I am sorry I didn't get here for the testimony, however, I have talked with the Congressman from Louisiana, and know that he gave something I should have heard. My questions, I believe, would be rather limited in scope and they might be quite elementary so I think I will forgo those and read what you had to say this morning, and probably get a better enlightenment.

Mr. BOGGS. You flatter me, sir.

Senator CARLSON. Congressman, I just happened to notice in your House Report 1282 by the committee on H.R. 5, it contains a statement that this is expected to result in a revenue loss of about $85 million in the year beginning in 1961.

Mr. BOGGS. Yes.

Senator CARLSON. We have a letter to the Treasury which is dated June 13 which said the loss would be $30 to $40 million; what change has taken place since the report?

Mr. BOGGS. Well, the bill as originally reported was not limited to the underdeveloped countries, and we later reported a committee amendment so limiting the bill. That is the difference.

Senator CARLSON. Thank you.

Senator LONG. Just one point about that revenue loss: Isn't this true, that we are proposing first one way and another, through foreign aid to start a housing program in Latin America, and with Public Law 480 money to start one economic development program after another and with Export-Import Bank money to make loans to foreign companies all of which would greatly exceed any revenue loss in this bill?

Mr. BOGGS. No question about it.

Senator LONG. In the long run wouldn't this program help you to make money?

Mr. BOGGS. I don't see how we could help miss making money and a lot of money.

Senator LONG. It seems if it is worth making the investment at all, the American businessman has to anticipate that the money would come back to this country and he would ultimately wind up paying taxes on it when the money ultimately came back in.

Mr. BOGGS. Yes, well, you know there has been this discussion about the deficit in the balance of payments. The only plus in the balance of payment has been the return from investment abroad. The deficit in the balance of payments is accounted for by No. 1, the foreign aid program; No. 2, our military exepnditures abroad; and No. 3, tourism. But our two pluses are exports and return from investment abroad, so if you remove investment abroad, we would have a deficit in the balance of payments which would be phenomenal. There wouldn't be any gold left in Fort Knox, believe me.

Senator FREAR. There isn't much left there now.

Senator HARTKE. Mr. Chairman, I would like, with the consent of the chairman, and Congressman Boggs, if I could, to read just a short portion from the President's budget message of 1961, fiscal year 1961 concerning private investment in which he says:

> The United States is trying to encourage more reliance on private enterprise in foreign economic development. During the past year, the Department of State and the Business Advisory Council of the Department of Commerce have both completed special studies in ways to increase the role of private investment and management abroad.
>
> Tax treaties are now being renegotiated in many countries, more trade missions are being sent abroad. Several of the less-developed countries are opening business information offices in this country. As a result of these various activities, more private investment in the less-developed areas should be forthcoming.

Then he makes this statement:

> To provide an additional incentive, U.S. taxation of income earned in the less-developed areas only should be deferred until repatriated.

I think this is very significant, and I think it just bears out the intent of what you are trying to do.

Mr. BOGGS. Thank you very much.

Senator LONG. Any further questions?

Thank you very much, Congressman Boggs.

The next witness is Arthur Wood. Is he here?

Mr. WOOD. Yes, sir.

Senator LONG. Will you please be seated, Mr. Wood. We are happy to have you here today.

Mr. WOOD. Thank you, Mr. Chairman.

Senator LONG. This is Arthur M. Wood, vice president, Sears, Roebuck.

STATEMENT OF ARTHUR M. WOOD, VICE PRESIDENT, SEARS, ROEBUCK & CO., CHICAGO, ILL.

Mr. Wood. Mr. Chairman, I would like to introduce Mr. Robert R. Jorgenson who is manager of the Sears, Roebuck tax department.

My name is Arthur M. Wood, and I am vice president, secretary, and comptroller of Sears, Roebuck & Co. of Chicago.

I appreciate the opportunity to appear here today and to testify in support of H.R. 5, the Foreign Investment Incentive Tax Act. We at Sears feel that the best kind of foreign aid this country can provide to countries in Latin America is to encourage the use of private capital in producing modern business methods which create jobs and raise living standards. I propose to explain how the provisions of H.R. 5 would encourage expanded business activities by Sears, Roebuck & Co. in our Latin American subsidiaries. I will first briefly describe Sears' Latin American operations and then offer a few comments on the bill.

Sears, Roebuck & Co. has been in business in Latin America since 1942 when it opened its first store in Havana, Cuba. The Havana store was largely experimental.

After World War II, we entered Latin America in earnest, starting with a store in Mexico City. Now we have 49 stores and 8 sales offices in 6 Latin American countries—Brazil, Colombia, Cuba, Mexico, Peru, and Venezuela. These stores represent a present investment of approximately $53 million, practically all of it provided by Sears.

Before Sears entered Latin America, the retail business there was generally small and backward. The goods carried no selling prices. Quality was not guaranteed, and variety was limited. Sales personnel were inefficient and unschooled. Business volume, as a result, was small, for only the higher income groups could afford quality clothing and home furnishings.

When Sears entered Latin America, we brought along the American methods of retail selling. In our stores, prices are clearly marked on all the goods and the price indicated is what the customer pays, not a cent more.

The merchandise is laid out attractively on open counters where the customer can see and touch it for himself. Every item sold is accurately and fully described and, above all, its quality is guaranteed. This pleases the ordinary shopper who is now able to calculate how much he can afford to spend and exactly what value his money will bring.

Sears' example has had a substantial impact upon other Latin American retailers; they learned that the customers liked what they found in Sears' stores and they are now copying Sears' methods.

When we first opened in Latin America, we imported practically everything we sold. The quantity and quality of locally produced goods was not large enough nor good enough to satisfy our policy of providing goods of guaranteed quality at a fair price.

We set out to work with local manufacturers. We started with cottage producers to find someone who owned a machine or two. We loaned him enough money to buy more machines and hire more workers, and gave him enough orders to assure him a steady flow of work and Sears a steady flow of goods. To insure quality, Sears sent around technicians to check and advise.

They helped the local manufacturer on plant layout, manufacturing methods and equipment, and provided advice on financing. With this help and firm orders from Sears, these manufacturers have become efficient, low-cost suppliers.

In a few instances, Sears has found it necessary to go into the supply end of retailing itself in order to insure a steady supply for its retail stores. But generally, Sears relies upon others to make what it needs.

For example, in Mexico we do business with a total of about 2,700 independent Mexican suppliers, many of whom Sears put into business. In recent years we have purchased from local Latin American sources roughly 75 percent of the merchandise we sell there.

Due to these developments, 90,000 persons are now employed in Latin American factories making Sears' merchandise. New skills have been brought to these factory workers. This, of course, has had an effect upon Latin American industry that goes beyond the suppliers with whom Sears deals.

It has stimulated expansion by other retailers, and has encouraged product development by competing manufacturers. We think we have generated good will and increased respect for United States and its business methods in these six countries of Latin America.

Now a bit about our company there. In each country we are organized as a corporation under local law. These corporations bear the name of the country as Sears, Roebuck de Mexico, or Sears, Roebuck del Peru. Of the 9,000 persons employed directly in our Latin American stores, 8,900 are nationals with only the top supervision from the United States. We are now training nationals to take over many of the jobs. They fill just about every executive job. This is of immeasurable importance psychologically as it means that for a change the Latins, who have historically been thought of as "inefficient" and "unbusinesslike," have proven to be every bit as competent and reliable as their counterparts here.

Our companies pay good wages and provide a wide variety of benefits such as paid vacations and holidays, sickness allowance, luncheons at cost, and a discount on purchases. In some countries where it is feasible, there is also a profit-sharing plan—three of these companies, to be exact——

Senator LONG. What are those?

Mr. WOOD. Those are in Venezuela, Mexico, and Cuba. It is practically unheard of in those countries to share the profits with the employees.

Each corporation has a public relations program which encourages employees to participate in civic works for the public good and company time is provided for these activities.

There is financial support for education and for local health programs. We have been told that the public image of Sears in Latin America is good. We believe that this type of "foreign aid" is sound. By demonstrating what profit-motivated free enterprise can do, Sears encourages more local businessmen to embrace this system.

HOW H.R. 5 WOULD HELP SEARS OPERATIONS ABROAD

Senator LONG. Can you give me some idea as to how your prices relate to your cost of doing business? In other words, what is your markup on a net basis?

Mr. WOOD. Well, without giving away any business secrets, Mr. Chairman, I think we could say that our markup there on cost is substantially the same as it is in this country.

In other words, while we have introduced low-cost methods of manufacturing, and mass production, although on a much smaller scale than here, we probably—at the outset—were able to underprice competition, without any question.

Senator LONG. I believe I read somewhere, perhaps in the National City Bank of New York Newsletter, that the markup in Sears was somewhere between 3 and 5 percent on a net basis.

Mr. WOOD. Well, on cost, of course, your initial markup is considerably more than that.

Senator LONG. But after you pay your taxes and so forth?

Mr. WOOD. We earned last year approximately 6 percent on sales after local taxes, not after U.S. taxes.

Senator LONG. That is not after your U.S. taxes? After U.S. taxes you are making half that then?

Mr. WOOD. No, sir. Actually we are making about 4.5 percent after U.S. taxes because as you know the taxes in these countries have been increasing, and while those taxes are less than U.S. taxes, they are approaching in many countries the rate that we have here, so that the additional U.S. tax on the profits we bring in reduces our profit on sales to around 5 percent.

Senator LONG. Well, the reason I raise this is because one Senator who traveled abroad told me he came across a plant operated in a foreign country by a foreigner, which had been made possible by our investments and our aid. The working people there were doing no better than they had been before working somewhere else, yet the profit was fantastic. The Senator asked, "Why don't you raise wages or cut your labor in on some of the benefits from all of this?" and the response of the local businessman was "Why should I?" He thought the Senator was foolish to even suggest it, but actually when groups such as yours bring the competitive element in, the local merchant is more or less compelled to follow that concept, is he not?

Mr. WOOD. That is correct, and we feel in all these countries, we have helped to raise the standard of living by making goods available, clothing, household furnishings, the necessities of life to a much broader percentage of the market and by providing jobs we have increased the payrolls and we get some of this back in purchases as does our competition. Now, a brief word on how H.R. 5 would help Sears in its structure and in its operations abroad.

Under present law there is a lack of flexibility in the use of retained earnings which follows from our form of subsidiary organization.

We are not now able to use profits generated in one country to provide for expansion or working capital in another Latin American subsidiary, unless we transfer the funds through our parent company, paying the U.S. tax in the process.

For example, our Venezuelan subsidiary has nine stores. The profits earned by it can be used to finance additional outlets there. However, if we want to use the profits of Venezuela to open a store in Peru, under our structure we would have to declare a dividend from Venezuela, to the Sears Co. here, pay U.S. tax on the dividend, and transmit what is left to Peru. During this period of expansion in Latin America, when substantial sums are needed for reinvestment, we are penalized by our corporate structure.

On the other hand, a corporation now starting out can form a holding company in some "tax haven" country. It can then, without any appreciable tax burden, transfer the earnings generated by a subsidiary in one foreign country to another subsidiary which can more effectively use these resources within a different foreign country.

We tried to alleviate this inequity under existing law. In 1957 we attempted to organize a foreign holding company for what we considered sound business reasons. We desired to transfer to the holding company the stock of our Latin American subsidiaries. Such a company would have permitted us to use the earnings of one subsidiary to meet the need of another subsidiary. It would also have offered us flexibility in the event of changes necessitated by local political or economic instability.

To establish such a corporation, it was either necessary to obtain a ruling from the Treasury Department that a principal purpose was not the avoidance of U.S. tax, or else pay a substantial tax because of a simple reorganization. After some negotiation, the Treasury held that the possible deferral of U.S. tax was the equivalent of avoidance and they refused to grant a favorable ruling.

Under H.R. 5, companies with existing subsidiaries abroad such as ourselves would be allowed to form a holding company for ownership of the stock of their foreign subsidiaries and to accomplish this by a tax-free exchange.

Furthermore, such a holding company could be a domestic corporation, organized in one of the States of the United States.

Senator FREAR. You might consider Delaware. [Laughter.]

Mr. WOOD. Thank you, sir. This would end the unhappy situation of American businessmen resorting to tax haven countries, foreign flags, to achieve a result that our own Government should make available for them.

In our opinion, enactment of H.R. 5 will not result in loss of revenue to the Government for longer than a very short term, and ultimately it will stimulate the flow of larger dividends subject to U.S. tax.

Our investment in Latin America was made to produce profits and dividends for the stockholders of Sears, Roebuck & Co. They expect the parent company to bring in dividends from our Latin American operation and to date the total of such dividends amounts to more than $14 million. In the long run, H.R. 5 will not result in a reduction in the amount of dividends taxable in the United States. It will, on the other hand, enable us to build a larger and sounder base for the creation of dividend-producing assets in those countries. Accordingly, we urge that this committee report favorably on H.R. 5.

Senator LONG. This bill will be looked upon as taking the place of foreign aid in the long run, won't it?

Mr. WOOD. Yes, sir.

Senator LONG. So, in the long run, it is a case of where we can help ourselves and the other fellow at the same time?

Mr. WOOD. I think that is so, definitely.

Senator LONG. Thank you very much.

Senator Frear?

Senator FREAR. Mr. Wood, in your stores in these six countries, I believe I read that you were now getting from local manufacturers approximately 90 percent of your sales.

Mr. WOOD. It varies from one country to another, Senator. The overall average up until this year has been around 75 percent of all merchandise sold was procured locally.

Now, that percentage has increased due to the changes in Cuba. We are now forced to procure practically all of our merchandise in that country due to the new import restrictions.

Senator FREAR. Are your operations restricted in Cuba by the way?

Mr. WOOD. We are continuing to operate in Cuba. Our sales have declined considerably. The major reason is that we are a little short of merchandise. Because the flow of merchandise from this country to Cuba has been drastically reduced because of the high-import duties that were recently imposed, on foreign goods.

Senator FREAR. Now, of this other than material that is manufactured locally, from what country or countries are imports made to supply you?

Where do you get your supplies from Venezuela, for instance that you don't manufacture there?

Mr. WOOD. Well, the great majority of the merchandise comes from the United States. We do import some items, a very small percentage from Europe. But the big portion of that 25 percent comes from this country.

Senator FREAR. On items that are generally made in this country for your stores in this country, do you import like objects or goods?

Mr. WOOD. Would you state that again?

Senator FREAR. Let's just say shoes, that is an item; shoes are made in this country.

Mr. WOOD. Yes.

Senator FREAR. And for the shoes that are sold in this country do you import them or are they of domestic manufacture?

Mr. WOOD. Well, the shoes sold in the United States are 90 percent U.S. made. In Latin America the soft lines, including shoes, are manufactured locally; that is one thing that the Latin Americans do very well, the manufacture of garments, textile items, and, while some shoes are imported, the great majority are manufactured locally.

Senator FREAR. Well, these questions may sound perhaps unreasonable to you, but do you have stores in Japan?

Mr. WOOD. No, sir.

Senator FREAR. Do you import soft goods from Japan and for sale in this country?

Mr. WOOD. Our imports of soft goods from Japan are de minimis. The principal import from Japan is in manufactured items such as cameras, and some sewing machine heads, but our imports of clothing items are relatively minor. In fact they are very minor. We have mass production in this country of most all the clothing items and we have wonderful relationships with a great many manufacturers, most of them in the southern part of the country.

Senator FREAR. Now, if these manufacturers that you have helped to establish and have established under your auspices in South American countries, can make more than your stores will sell in the respective countries, would you give some consideration to importing those goods for sale in your domestic stores, that is, in the stores in the United States?

Mr. WOOD. Well, actually, the cost of manufacturing those goods and then shipping them to this country, plus the routine and the procedures of importing, in some cases against duties or import restrictions, would prevent that, and I can tell you that we have not imported from any of these Latin American countries goods for resale here.

Senator FREAR. Well, of course——

Mr. WOOD. Furthermore we don't control those companies and of course they do sell a substantial portion of their output to other local distributors.

Senator FREAR. Yes, I think I understood that. I mean these small manufacturers you don't take a hundred percent of the supply of all of them.

Mr. WOOD. That is correct.

Senator FREAR. I have been quite favorable toward this Western Hemisphere position that we have had, and I am wondering if the condition did develop where through your emphasis and other American companies that went into Latin America and developed processes for certain types of—manufacture of certain types of whatever may be sold, whether it be clothing or shoes or horse collars, I guess, that we might give some preference to the import in this country for Western Hemisphere manufacture over European or Asiatic. That is leading up to something, and I don't want to have you answer it unless you care to. I mean if you have any views on it, why it is all right but I am not trying to put you, your company or you in a position whereby you might at a later date say, well, I said that before a committee and I suppose we will have to live up to it.

Mr. WOOD. Well, I think you have given me a pass on that question.

Senator FREAR. You are going to take it.

Mr. WOOD. Yes, I think I would like to take it.

Senator FREAR. Well, I gathered from what you have said, all of your operations in Latin America have been satisfactory with the possible exception of Cuba where conditions certainly have not been under your control?

Mr. WOOD. Well, I would like to say in response to that, we have had some serious problems arising in four countries of Latin America, due to the currency situation. In other words, it hasn't all been an easy matter to operate over these 15 years in Latin America. Of course, the devaluation problem is one which we feel is a good argument for the passage of this bill.

In Brazil, for example, we paid 5 cents for the first cruzeiro of our investment there, and the cruzeiro today is worth one-half of 1 cent. Over an 11-year period we have had substantial profits earned there because we have been accepted and our sales have been substantial. But in terms of U.S. dollars we are just about where we started in

1948. So that those problems have caused us headaches. We feel that this bill, which would permit us to set up a domestic holding company to take profits from a country such as Venezuela, use those profits to reinforce our working capital in Brazil, will really enable us to do a better job, give us flexibility, which we don't have under our present setup.

Senator FREAR. Have you had difficulty in bringing any earnings from Brazil back? Is that in your agreement with the country that you intend to return earnings or part capital?

Mr. WOOD. No, sir, we have been able to buy U.S. dollars for, I think the past 6 or 7 years, but of course the cost of the U.S. dollars in terms of cruzeiros has been more and more painful but we do bring back dividends. We brought back a small dividend from Brazil in each of the last 2 years.

Senator FREAR. But your investment in Brazil regardless of the fluctuation of the cruzeiro, and its value, you have practically a constant value so that someday you may reap the benefit of the pain that you have had in the last few years.

Mr. WOOD. That is correct. Our real estate, our stores, our fixed assets are certainly appreciating in terms of local currency.

Senator FREAR. Thank you, I didn't mean to take up so much time.

Senator LONG. Senator McCarthy?

Senator MCCARTHY. Mr. Chairman, I have two questions, on the matter of dividends, Would you have brought them back if you had H.R. 5 last year and the year before? Would you have transferred that money from one South American country to another?

Mr. WOOD. Well, that brings up the question of our policy on paying a portion of our profits wherever we earn them through dividends to the stockholders of Sears, Roebuck & Co. We have followed the practice of paying out 50 percent or slightly more than 50 percent of our earnings to our public stockholders.

We now have the policy of attempting to bring back some such percentage from Latin America. Accordingly, to be more responsive to your question, Senator, I would say we would have brought back a portion of our Brazilian profits through this holding company that we propose to set up, and taken the aggregate of profits of all of our Latin American subsidiaries which came through in the form of dividends to the holding company we would have measured our particular needs for working capital in any country and then having satisfied those, declared the balance in dividends to the parent company.

We always are asked at stockholders' meetings. "What are we stockholders reaping from our investment in Latin America?" and we want to be able to say "so many dollars of dividends have come up to the parent company."

Senator MCCARTHY. The second question is the Republican members in the Ways and Means Committee in their separate views raised the question—they said that the passage of H.R. 5 to the extent that it might be used, might increase the pressures to transfer production effort from the United States or some other country. You indicated that Sears, Roebuck had encouraged productive efforts and had underwritten or financed such production in various countries. Do you think their fears have any foundation?

Mr. Wood. I don't think that those fears are real insofar as setting up production overseas for domestic use is concerned.

That is Sears, Roebuck's picture. We have helped manufacturers establish themselves overseas in Latin America in order to provide production for domestic consumption. I don't feel that that should cause American manufacturers any concern. In the first place they haven't had a real market there. Secondly, I think that the more important need at this day is to develop industry in these countries to make them more economically self-sufficient.

Now, if this bill were to assist the creation of oversea manufacturing concerns which would ship their goods back to this country, there would perhaps be more reason for concern, but as drafted, the bill would disqualify a corporation from its provisions if more than 10 percent of goods manufactured overseas were shipped back into this country.

Senator McCarthy. That is all, Mr. Chairman. Thank you, sir.

Senator Long. Senator Hartke?

Senator Hartke. I want to thank you for a fine statement, Mr. Wood. Your business by its very nature is the type of business which depends on consumer buying, is that right?

Mr. Wood. Yes.

Senator Hartke. And if there is no consumer buying in a country, you can't make a profit or can't continue in business. I thought it was very significant when you said we had no real market in these countries at the present time for many of these consumers' goods under present circumstances.

Mr. Wood. Well, I think I should qualify that by saying that there are, as Congressman Boggs indicated, restrictions in many of these countries of Latin America on imports from abroad. They have an infant textile industry as I indicated and they are now getting into hard lines manufacture; and for years there have been restrictions on the imports of goods from American factories, and that was what I intended to indicate when I said that the market is restricted for American manufacturers.

Senator Hartke. Yes, I understand that.

It is your contention, as I understand it, that you believe by increasing these markets in these foreign countries that you will raise this standard of living and thereby make them not alone more self-sufficient but better neighbors and more apt to want our way of life; is that right, sir?

Mr. Wood. You stated it very well, Senator.

Senator Hartke. And plus all that you think Sears, Roebuck might make a little profit along with it?

Mr. Wood. We shouldn't be there if we didn't have that desire.

Senator Hartke. Do you believe that this is a complete answer, however, to the problems we have with these countries?

Mr. Wood. No. I think it certainly is not.

Senator Hartke. Just a step in the right direction?

Mr. Wood. It is a step in the right direction.

Senator Hartke. Of an overall program.

Mr. Wood. Yes, sir.

Senator Hartke. In your opinion, does this bill provide incentive for corporations in the United States to move into foreign markets?

Mr. WOOD. Well, I think that it certainly helps a group of American management in making a decision as to whether they will move.

I think American business is looking abroad today. They are willing to risk a certain amount of capital overseas. This bill permits them to be more flexible with that capital and, therefore, I think it does provide an incentive for more American enterprise overseas.

Senator HARTKE. And there is more risk overseas due to the instability of the government and the currency and the like, isn't there?

Mr. WOOD. Definitely.

Senator HARTKE. How do you answer this frequently brought out statement that legislation of this type exports jobs?

Mr. WOOD. Well, I just don't think it does export jobs, Senator. If this were an incentive to American manufacturers to go overseas and eliminate a plant in this country, because labor rates were lower overseas, with the intention of bringing back those goods, I think perhaps those critics would have a point.

But this bill definitely inhibits that type of activity.

Senator HARTKE. Those are all the questions I have, Mr. Chairman.

Senator LONG. Actually, insofar as our trade policy is concerned the reason that we are out—were off balance on the balance of payments has to do with our foreign aid and military expenditures abroad, doesn't it?

Mr. WOOD. I believe that is correct.

Senator LONG. In other words, if you take those two out of the picture, our balance of trade and our dollar payments would be extremely favorable.

Mr. WOOD. No question about that.

Senator LONG. Now with regard to the countries that you are doing business with, your operation of exporting American items to those countries is almost entirely one insofar as trade is concerned, is it not? In other words there is very little that you ship back in. Your ship practically nothing back this way in terms of goods.

Mr. WOOD. Largely we have exported our dollar investment and know-how.

Senator LONG. Yes.

Mr. WOOD. It is almost entirely a local operation; and, of course, we are in the distributing business. Insofar as we can help local manufacturers, I think the effect on American manufacturers is minimal.

Senator LONG. Well, the effect of your company going to Latin America has been to tremendously increase the amount of sales of American manufacturers in those countries, is it not?

Mr. WOOD. I think it is.

Senator LONG. And the only reason it has not increased more—the prime reason it has not increased it more—is they won't give you the licenses to bring American goods in because they are short on dollars?

Mr. WOOD. Yes, that is correct.

Senator LONG. Thank you very much, Mr. Wood.

I have been requested to call Mr. Walter Slowinski of Chicago next, perhaps because he will be required to be out of town later on and not be available to us.

STATEMENT OF WALTER SLOWINSKI, OF CHICAGO

Mr. SLOWINSKI. Mr. Chairman, Senator Hartke, this is by no means a request for precedence in the order. It was just that I was requested to make a preliminary statement on some of the technical facets of H.R. 5 and my statement will take only 10 minutes.

I am pleased to appear before this committee to testify on H.R. 5 in the capacity of an adjunct professor of law at the Georgetown University Law Center where I teach a graduate seminar called Tax Problems of U.S. Corporations Abroad.

The same course is taught by me on alternate semesters at the University of Virginia Law School in Charlottesville, Va. The majority of my time, however, is devoted to the practice of foreign trade and corporate taxation as a partner in the law firm of Baker, McKenzie & Hightower of Chicago, Ill.

As Mr. Boggs noted earlier this morning, H.R. 5 has been endorsed by the Departments of State, Treasury, and Commerce and such nongovernmental, but certainly representative groups as the chamber of commerce of the United States, the AFL-CIO, the National Association of Manufacturers, and the Farm Bureau Federation.

From the record before the Committee on Ways and Means, probably no piece of legislation in recent history has been so widely supported in the business community as H.R. 5.

Senator, I think, in the area of 300 corporations expressed support of H.R. 5 and their people were willing to testify before the Ways and Means Committee. A shortage of time limited those hearings to 3 days.

For this reason, this bill is correctly described, I believe, by one of the Members on the House floor as a "practical step to enlist American private capital in the job of developing underdeveloped countries."

For the first time in our history, H.R. 5 will incorporate into our Internal Revenue Code a concept of U.S. tax deferral on foreign source income of a U.S. corporation until that income is brought home as a distribution.

The successful experience of the United Kingdom over the past 3 years in this same area of oversea trade corporations is a proper analogy. If our Congress adopts this same foresighted approach, we may look forward to an extension and expansion of this legislation in future years because of its success in achieving our national objectives.

A few words on the legislative history of H.R. 5 and the principle of tax deferral.

The principle has been before this committee before. You will recall that in 1954 the same concept of tax deferral on foreign income earned by branches of U.S. corporations actively engaged in trade or business was before this committee in H.R. 8300, of the then proposed Internal Revenue Code of 1954.

It had been incorporated in sections 951 to 958 of the 1954 code, and it had been passed at that time by the House of Representatives.

At that time, in the Senate Finance Committee's report, it was stated that your committee would like to omit this proposal with the thought that exploration of the matter in conference with the House would make it possible to adopt a satisfactory provision.

Some time was running out on the second session of the 83d Congress, however, and in the conference report it was agreed that this provision would be omitted and be postponed for a more thorough study.

That kind of a thorough study, Mr. Chairman, began in the Foreign Trade Policy Subcommittee of the Ways and Means Committee in December 1958, as Mr. Boggs described it this morning.

He, as the chairman of the Foreign Trade Policy Subcommittee, held public hearings for 5 days. Based on the testimony of experts from the universities, the business community, legislators, and others concerned with foreign trade, there was evolved H.R. 5, sponsored by Representative Boggs and introduced on January 7, 1959.

Further hearings before the Ways and Means Committee were held on H.R. 5, on July 7, 8, and 9, 1959, and at those hearings the Departments of State and Commerce strongly endorsed this legislation.

They had been the recent recipients of the foreign trade and investment studies known informally as the Strauss and Boeschenstein reports.

This committee will recall that the Straus report was prepared pursuant to the authority of the Congress under the Mutual Security Act, and the Boeschenstein report was prepared at the request of the President of the United States. Both of these reports endorsed the principle of tax deferral.

Now as to the scope of H.R. 5.

Although, as presently passed by the House, it is a modest bill in terms of what it seeks to accomplish; nevertheless, it does offer, for the first time, the following possibilities, if enacted:

1. A U.S. corporation will be able to operate abroad under the American flag in less developed countries and be granted the benefit of U.S. tax deferral by our Government.

(It will, of course, pay foreign taxes in the countries in which it engages in business, and in certain underdeveloped countries such as India and Pakistan the tax rate exceeds our own. When this income is returned to the United States for distribution to the American stockholders, it becomes subject to the full impact of the 52 percent corporate rate applicable to all corporations.)

2. This tax deferral in H.R. 5 is to be elective and nonexclusive. In other words, a U.S. corporation would be able to form a so-called foreign business corporation (FBC) as a subsidiary for a specific project in a less developed country or countries, and yet develop or maintain its separate corporate structure for operations in the more developed countries of the world.

3. The legislation is drafted to permit a U.S. corporation to make available its expertise in the form of technical, managerial, engineering, construction, scientific, and like services to its FBC for use in less developed countries.

4. One of the principal advantages of the bill lies in the encouragement it gives to small- and medium-sized companies to put their skills to work abroad by creating foreign business corporations which can derive up to 25 percent from licensing royalties in less developed countries.

5. The bill contains a liberalizing provision to make it possible for small, closely held U.S. corporations to form foreign business cor-

porations to engage in active business abroad without the possible threat of the U.S. personal holding company tax.

6. Under section 3 of H.R. 5 it would be possible, without the necessity of obtaining a favorable section 367 ruling in advance from the Commissioner of Internal Revenue, to transfer certain property from a foreign corporation to an FBC, and likewise to transfer certain foreign business property from an FBC to its foreign subsidiary. This would greatly expedite foreign operations in which an FBC is engaged. This elimination of the need to obtain prior approval on each transaction from the Commissioner of Internal Revenue can be of considerable advantage to the small- and medium-sized companies.

The need for deferring the tax on foreign earnings of U.S. corporations has been advocated by past and present administrations.

H.R. 5 enjoys the support of the Treasury Department whose technicians have worked closely with the staff of the Joint Committee on Internal Revenue Taxation to prepare the bill before you.

H.R. 5 is supported by major organizations representing both labor and management.

H.R. 5 is a modest bill by many standards, but it is a great first step in the drive to achieve tax equality for the U.S. corporations which are now engaged in deadly competition with foreign corporations on foreign soil. The adoption of this bill, we believe, will give our private investment an opportunity to compete on more equal terms in the less developed countries in the world.

Senator LONG. Thank you for your statement, Mr. Slowinski. I just want to ask you one question that occurs to me. In your capacity, have you given any thought to whether we might be able to put some of this Public Law 480 currency to work in helping to develop, on a loan basis, or any other basis, some of these foreign countries from an economic point of view—that is, by loans either to American businessmen or business concerns in those countries?

Mr. SLOWINSKI. Mr. Chairman, I would certainly like to talk about Public Law 480 funds because we have been familiar with them over the last few years especially——

Senator LONG. We have billions of dollars of it lying around all over the world.

Mr. SLOWINSKI. Since the adoption of the Cooley amendment, however, 25 percent, as you know, was made available for private U.S. corporations as loans for them to do business abroad. The Export-Import Bank has authority for screening all of these applications for loans. Many of our corporations have been the beneficiaries of loans, but it just so happens that in the countries in which we have the greatest use for these Public Law 480 funds, there is the greatest shortage of them for private investment.

I mean that in Mexico, for example, all of the pesos in the Public Law 480 funds have been spoken for. We must also tell you, however, that in Brazil Public Law 480 funds a year or two ago were made available in a substantial amount for a great purpose, for the American graded schools in São Paulo and in Rio. Both of those schools are run on private funds. U.S. corporate employees who work in São Paulo and Rio support their own schools. They are U.S. citizens, but they provide all of the money for their schools. Your Public

Law 480 funds were given in two instances to extend the school buildings because in São Paulo, for instance, it was going to go from an enrollment of 553 students to more than a thousand in the next 2 or 3 years.

Public Law 480 funds, Senator, require the lendee to be a U.S. citizen or a U.S. corporation or they require the lendee to be a foreign corporation in which the U.S. corporation owns at least 25 percent of the stock. In some instances our U.S. corporation doesn't own 25 percent of the stock, but would certainly like the Public Law 480 funds to put them at work abroad.

Senator LONG. Well, the thought occurs to me that in line with what the previous witness for Sears was testifying about, loans could be made to some of these foreign concerns which would like to produce things that could be sold. Thus they could make a loan to a firm which had a contract to sell most of the output of the business if the business could be established in that country. That would contribute to the economic development of the country. I just wondered what your thoughts were on it?

Mr. SLOWINSKI. Our thoughts would be, Senator, that we asked for a liberalization of the loaning provisions under which the Ex-Im Bank now administers the funds. They are restrictive in many instances. More extensive Public Law 480 loans would be very helpful to private investors in the underdeveloped countries.

Senator LONG. If loans could be made to foreign-owned businesses. Do you think that they should be made by Ex-Im or do you think there should be some different agency set up to handle them?

Mr. SLOWINSKI. I think it should stay with the Ex-Im Bank presently because they have the administrative background and the experience.

Senator LONG. Senator McCarthy?

Senator MCCARTHY. This bill is limited to underdeveloped countries. In your opinion should it be extended to all countries?

Mr. SLOWINSKI. Yes, sir.

Senator MCCARTHY. As an economist what would be your position, what is the justification for this limitation?

Mr. SLOWINSKI. The justification for this limitation as proposed by the Treasury Department is that they would rather have this money go directly to investment in less-developed countries, than not, for example, being first made in a developed country of the world and then used in a less developed with tax deferral, you see, overshadowing the entire transaction.

Senator MCCARTHY. Couldn't they accomplish that purpose by permitting the transfer from developed countries to less-developed countries and you give the same tax concession to a corporation operating in a developed country?

Mr. SLOWINSKI. Yes, sir.

Senator MCCARTHY. What is your position and your opinion of the Treasury position if that change were made? Their argument is principally one of revenue, the loss of revenue?

Mr. SLOWINSKI. Yes; our position is really that you are suggesting the ultimate solution to the problem. But in view of the lateness of the hour in this Congress and the possible opposition of the Treasury

Department if the bill does not remain as it is, and the possibility of a veto, the improvement would be a disservice to the bill rather than a help.

Senator McCARTHY. We know there will be a deferment of payment of the taxes following the passage of the bill. In your opinion how long would that deferral, how long would it carry before you begin to collect? This is a postponement. We always know there is some leakage, when there is a postponement, you don't get it all back, but we do get most of it back in this program.

You think most of the $85 million will be deferred in the bill as drafted. What, in your opinion, would be the time lag before we would begin to collect?

Mr. SLOWINSKI. Senator, I am not prepared to answer, except to tell you that it has been the experience of some corporations doing business outside the United States for as little as 5 years finding that the capital investment they intended to undertake has then been completed, and that further profit was on its way back to the U.S. shareholder as a dividend.

This is certainly true in some Canadian situations where the company has done business in Canada for 5 years, and has constructed all the facilities necessary in Canada.

Senator McCARTHY. Thank you.

Senator LONG. Senator Hartke?

Senator HARTKE. Let me ask you, assuming that it didn't even find its way back, wouldn't this really be a positive approach to helping underdeveloped countries, and in the long run, should this not materially benefit these countries, and the world, and would not the United States as a general overall proposition be in the position of helping these people to raise their standard of living, to pull themselves out more or less by their own bootstraps?

Mr. SLOWINSKI. Congressman Boggs this morning mentioned Brazil and the automotive industry. It is interesting to drive from Sao Paolo, 3,400,000 people, to Santos, 1,000,000 people, some 40 miles away. On both sides of a big four-lane highway are new modern plants built by Volkswagen, Alfa Romeo (which makes trucks) Mercedes Benz, Fiat. All of these companies are in competition with Willys in building cars in Brazil. We bring U.S. technology to build the automotive industry in Brazil along with the other companies.

If we can achieve the national objective of building these countries with this private investment, you are right in saying we have been benefited.

Senator LONG. And every one of those companies has a tax advantage over the American companies, too, does it not?

Mr. SLOWINSKI. Yes, sir.

Senator LONG. Pardon me, Senator Hartke, I interrupted you.

Senator HARTKE. I have no further questions.

Senator LONG. Thank you very much.

Mr. Fred W. Peel, U.S. Council of the International Chamber of Commerce.

STATEMENT OF FRED W. PEEL, U.S. COUNCIL OF INTERNATIONAL CHAMBER OF COMMERCE

Mr. PEEL. Mr. Chairman and members of the committee, I am appearing today on behalf of the U.S. Council of the International Chamber of Commerce. The U.S. Council is an organization composed of the American members of the International Chamber of Commerce. It is nationwide in scope and its members include business firms in virtually every field of enterprise.

The principal concern of the U.S. Council is the international trade and private foreign investment of the United States. Consequently we appreciate having this opportunity to express to the committee the position of the U.S. Council on H.R. 5.

Senator LONG. Before you continue, Mr. Peel, for the information of the new members of the committee, I think they would like to know that you are a former member of the Finance Committee staff. I believe you left about the same time that I came on the committee. I hope that there is no connection between the two events. You were a member of the staff of the Joint Committee on Internal Revenue and Taxation, as well.

Now will you please go ahead, Mr. Peel.

Mr. PEEL. Thank you.

The U.S. Council endorses H.R. 5 and recommends that it be reported favorably to the Senate. H.R. 5 would permit deferral of the determination and payment of U.S. income tax by qualified American corporations as long as their income remains invested abroad. This is a sound principle.

Its adoption would be of significant help in the expansion of private American business and investment abroad—thus furthering our foreign policy objectives and the economic well-being of our Nation as a whole.

Expansion of American business abroad assists the economic growth of friendly nations in an unique manner, which Government assistance cannot duplicate. Private firms going into the less-developed countries not only bring capital, they also bring managerial and technical skills. By increasing domestic demand for local products they encourage a whole train of additional economic development.

American firms abroad demonstrate to the peoples of other countries the vitality and responsibility of modern private enterprise. Furthermore, foreign operations by American business directly strengthen the ties of friendship and mutual interest which unite the peoples of the free world.

The expansion of American business abroad helps our domestic economy because it helps the economic expansion of other countries and thus makes these countries better markets for our exports. There is a direct connection between overseas investment by American firms and increased exports. The business growth of our firms abroad adds to U.S. export markets by making our foreign customers more prosperous. This is clearly demonstrated by the fact that the big foreign markets today for American products are in the industrialized, economically developed nations—rather than in the less developed countries where people do not have the means to buy the output of American industry in significant quantities.

While endorsing H.R. 5 the U.S. Council urges this committee to reinstate the definition of eligible "foregn business corporations" which was contained in the bill when it was first reported by the Ways and Means Committee.

In its present form the effectiveness of the bill has been greatly impaired by restrictions placed on the operations of eligible foreign business corporations.

These provide that most of the gross income of a qualifying corporation must be from within less developed countries and most of its investment and payroll must be in less developed countries.

This committee should recognize how drastically these limitations reduce the scope of the original deferral proposal. Firms engaged in business in both developed and underdeveloped countries will frequently not find it feasible to incur the additional expense and loss of efficiency involved in setting up a separate, duplicating corporate organization to cover only the less developed countries.

Furthermore, by limiting the income from developed foreign countries which is eligible for deferral the principal source of funds for investment in the less developed countries has been cut off—thus losing sight of the basic objective of the legislation.

The U.S. Council has several other suggestions to strengthen the deferral provisions of the bill:

1. The limitation on the percentage of eligible gross income in the form of compensation for the use of patents, copyrights, etc., should be stricken from the bill. The scope of this limitation is obscure, since it does not apply where the royalties are received in the course of the active conduct of a trade or business. If the limitation remains in the bill it is certain to result in a number of difficult interpretative problems.

There is a danger that it might be construed to apply to subsidiaries that are granted nonexclusive licenses for patents owned by their parent corporations and whose personnel is composed of engineers and technicians who render technical services to foreign licensees as well as engaging in sales activities.

There are some foreign countries which do not encourage investment by other than nationals, and it is a common practice for U.S. companies or their subsidiaries to enter into license agreements for the manufacture of their products in these countries. Japan has been an example of this in the past. The 25 percent limitation on royalty income might be interpreted as preventing such license agreements.

There are other countries which are not parties to the International Convention for the Protection of Industrial Properties, and it may not be advisable for a U.S. company to register its patents in such countries. It has been the practice of some companies to enter into license agreements with producers in these countries in order that their products might be manufactured there and their U.S. patents will still be protected. Here again the 25 percent limitation on royalities might prevent a foreign business corporation from entering into such license agreements.

2. The bill contains a complex investment payroll formula which is superimposed on the regular statutory rules as to the source of income. The effect of this formula is to treat part of the foreign income of a foreign business corporation as though it had been distributed to the shareholders. In some cases application of the formula would make a corporation ineligible under the bill. It is recommended that the investment payroll formula be deleted. The objectives of the bill can be adequately protected by providing that the foreign income on which tax is deferred (determined under the ordinary source rules) must be actually invested in an eligible foreign country. If the investment-payroll formula is retained it should at least be modified by excluding compensation to supervisory and executive personnel from the payroll computation.

3. The limitation on imports into the United States of products of a foreign business corporation should be made less stringent. As the bill is now written, if a foreign business corporation should derive more than 10 percent of its gross income from sales for use in the United States it loses its eligibility entirely. It would be better to make that portion of the income which is derived from the sales for use in the United States ineligible for deferral without disturbing the deferral of the corporation's other income.

4. The provisions of the bill which treat certain types of income as constructively distributed by a foreign business corporation (so as to make such income currently taxable) should be corrected to avoid the effect of a double tax in a year in which there is also an actual distribution.

It would be fairer to establish a conclusive presumption that income actually distributed during the year as a dividend by a foreign business corporation, or treated as a constructive distribution because of a loan to its parent corporation or because of a purchase of prohibited property, is distributed first from that portion of the foreign business corporation's income which is ineligible for deferral by reason of application of the investment-payroll formula.

5. A foreign business corporation which also qualifies as a Western Hemisphere trade corporation should be allowed a proportionate share of its 14 percentage point tax differential contemporaneously with each distribution from its reinvested income account. As the bill is now written the Western Hemisphere trade corporation benefit is in effect postponed until three-quarters of the corporation's income has been distributed and subjected to tax at the full corporate rate.

The tax deferral provisions contained in H.R. 5 do not by any means represent the complete foreign tax program which is necessary to encourage international trade and provide a more adequate flow of private investment abroad. Such a program should also include the following:

1. Application of the 14-percentage-point tax differential to income earned in all foreign countries, directly or through subsidiaries, as active business income or as compensation for technical services;

2. Deferral of tax on foreign branch income of all types of U.S. corporations;

3. An election between the "per country" and the "overall" limitations on the foreign tax credit (a proposal on which this committee has recently taken favorable action).

4. An aggressive program to negotiate bilateral investment treaties with those foreign countries that sincerely desire to attract private funds from the United States to aid in their economic development;

5. Liberalization of the provisions of section 367 of the Internal Revenue Code of 1954 to facilitate the tax-free transfer of business assets to foreign subsidiaries; and

6. Involuntary conversion treatment of fire insurance proceeds received from the insurance of assets of foreign subsidiaries and reinvested in the foreign subsidiaries.

In conclusion, although mindful of the limited time available to the committee before adjournment, the U.S. Council commends H.R. 5 to the committee and urges favorable action on it in this Congress.

Senator LONG. Thank you for your statement, Mr. Peel.

You have some good suggestions but the only thought that occurs to me is that it is very doubtful that we can pass H.R. 5 in this session at all, and if we undertake to go into these various suggestions, many of which might appear to improve the bill we might not have any bill at all.

That is one of the problems facing this committee.

Mr. PEEL. We do not recommend that the committee defer action on the bill merely in order to act on these suggestions.

Senator LONG. Thank you so much, Mr. Peel.

Senator McCarthy?

Senator MCCARTHY. Mr. Peel, page 6 you say if the investment of payroll formula was retained it should be at least modified, and so forth, personnel from your payroll computation, what is your reason for that suggestion?

Why should that payroll be treated differently from the ordinary payroll of a corporation?

Mr. PEEL. Because what we are thinking about there is the effect, in the operation of the formula, of the top echelon executives in the home office and the home office overhead expense. By the very nature of their operations, those people can only operate in the United States, and I think——

Senator MCCARTHY. There would, it would be a very small percentage of the total payroll, would it not?

Mr. PEEL. I think in most cases, it would.

Senator MCCARTHY. It seems to me a rather unusual suggestion to make by way of establishing the precedent of this kind. I can see where you might object to including payrolls together, but you are suggesting that supervisory and executive personnel payroll be excluded, it is rather difficult for me to understand why you want it excluded.

Mr. PEEL. It is my understanding of the investment payroll test as a whole that it is to make certain that the company claiming the benefits of the bill is actually engaged in business in the foreign country. As I say, we oppose the investment-payroll test as a whole, but including it and accepting its purpose, I still think that there are certain personnel which may, by their very nature, never be transferred abroad, and it would not be the objective of this committee to have the companies transfer abroad, and those are home office executives; and it is with that in mind that we made that suggestion.

Senator McCARTHY. I have a question or two more but I will yield to Senator Hartke.

Senator HARTKE. I have no questions.

Senator LONG. Then go ahead, Senator McCarthy.

Senator McCARTHY. The next question I have is if this bill is passed of course you will extend certain privileges to foreign business corporations.

You suggest the same privileges be extended to all corporations doing business overseas; is that not your testimony?

Mr. PEEL. Are you referring to the paragraph 2 on page 8 of my prepared statement?

Senator McCARTHY. That is right.

Mr. PEEL. That refers to the deferral of branch income without the necessity of creating a separate corporate entity. The bill would do that as it now stands in the case of one type of corporation; that is, the banks. I suggest that principle should be extended to all corporations that have branches abroad.

Senator McCARTHY. That should be extended to all corporations.

Mr. PEEL. I should emphasize that we of course do not expect that these comprehensive points which appear in my prepared statement could possibly be incorporated in H.R. 5 in time for action by this Congress, but it was just that we felt it only fair to the committee to present our comprehensive program, so you will appreciate that H.R. 5 is not the ultimate answer to every question in this area.

Senator McCARTHY. That is all.

Senator LONG. Thank you, Mr. Peel.

Mr. Joseph B. Brady, National Foreign Trade Council.

STATEMENT OF JOSEPH B. BRADY, NATIONAL FOREIGN TRADE COUNCIL

Mr. BRADY. Mr. Chairman and members of the committee, my name is Joseph B. Brady, and I am secretary of the National Foreign Trade Council's committee on taxation. The council was organized in 1914 to promote and protect American foreign trade and business. It comprises in its membership, manufacturers, merchants, exporters, importers, rail, sea, and air transportation companies, bankers, insurance underwriters, and others interested in the promotion and expansion of the Nation's foreign commerce.

I have a prepared statement, Mr. Chairman, which in the interest of time, I will summaize and request that the complete copy be included in the record.

Senator LONG. That will be done.

Mr. BRADY. The National Foreign Trade Council endorses the principles and objectives of H.R. 5 and urges its enactment into law. This bill, we believe, proposes changes in U.S. tax laws, which, if enacted, would assist American firms engaged in foreign trade and business.

As background, for a number of years, the National Foreign Trade Council has urged and still believes, that the proper standard for the taxation of business income from foreign sources is that of territoriality, that is, the taxation of income only in the country where it is earned.

The National Foreign Trade Council has also urged that pending the adoption of this principle, the United States should—

(*a*) tax business income from foreign sources at a rate 14 points lower than the rate ordinarily applicable to income from domestic sources;

(*b*) Defer U.S. tax until the income is distributed in the United States;

(*c*) Allow an election between the country and the overall limitations on foreign tax credit;

(*d*) Conclude tax conventions with additional foreign countries; and

(*e*) In general, apply a liberal policy with respect to all aspects of taxation which influence United States enterprises operating in the foreign field, and refrain from reducing incentives for U.S. foreign trade and business.

Provisions concerning deferral of U.S. taxation are included in the bill H.R. 5 as passed by the House of Representatives and, are endorsed by the National Foreign Trade Council.

Attention is invited to one of the amendments adopted by the House. This amendment provides that a corporation would not be eligible as a foreign business crporation, if the Secretary of Labor found that it was engaged in production outside of the United States under unfair labor standard conditions.

It is believed that the standards contained in the bill are vague, difficult to ascertain, and unrealistic. The provision is a departure from past practice and seems to pose potentially serious administrative problems. The opinion has been expressed on many occasions that invariably American companies operating abroad pay wages that are at least as high and in many cases higher, than those commonly paid in the industry in the country.

Enactment of this measure might cause some short-term reductions in revenue. Any such reductions should be evaluated on the basis of supporting data available to inspection and analysis by Congress and the interested public. The Council recommends, however, that these reductions should be balanced against the anticipated incentive effect in stimulating American foreign trade and business. It believes that the stimulation of American foreign trade and business will enlarge the aggregate of overseas earnings which form the long-term tax base and limit demands upon public funds for foreign economic assistance.

Foreign trade and business is a substantial and increasingly important part of the U.S. economic structure. The position of the United States in the world economy makes it an inescapable economic and political fact that U.S. foreign trade and business must be maintained and expanded.

Taxation is recognized as an important factor affecting American foreign trade and business, and it can be the determining factor in many cases in deciding whether or not an operation will be entered into. On the municipal and State level in the United States, it has been repeatedly found that a favorable tax climate will attract new business and that, on the other hand, excessive taxation can drive business away. On the international level many foreign countries, recognizing the tax factor, encourage industrial investment through the medium of tax rate reductions and other tax incentives.

Income from foreign trade and business is initially subject to tax abroad, and American companies engaged in foreign trade and business must compete with nationals of the countries in which they are operating, and with nationals of third countries, both of whose tax rates may be lower than that in the United States.

Encouragement and assistance to American foreign trade and business should be a major consideration in any tax regime affecting foreign trade and investment.

The proposals in H.R. 5, if adopted, would improve the present tax structure and should stimulate American foreign business. It would tend to place our enterprises in a position to better compete with the enterprises of other countries which have encouraged and aided their foreign trade and investment through tax incentives.

The National Foreign Trade Council emphasizes that any changes in the taxation of income from foreign sources should be considered from the long-term point of view. It is believed that the removal of obstacles to foreign trade and business will enlarge the aggregate of foreign earnings ultimately subject to U.S. taxation.

In conclusion, the basic position of the National Foreign Trade Council is that business income from sources outside the United States should be exempted from U.S. corporate income tax.

Secondly, H.R. 5, at least, in the form as passed by the House of Representatives, should be enacted into law.

Some consideration should be given to deleting the limiting amendments adopted by the House, particularly the amendments limiting the deferral to income earned in the underdeveloped countries and, secondly, the amendment that if the Secretary of Labor finds that a corporation's adherence to labor standards in the foreign country does not meet the labor standards in the foreign countries, deferral is prohibited.

We urge the passage of this legislation at this time in the belief that experience after its enactment will demonstrate that the effectiveness of the incentives offered will outweigh any temporary loss of revenue.

Thank you.

Senator LONG. Senator McCarthy?

Senator McCARTHY. I have no questions.

Senator LONG. Thank you very much, Mr. Brady.

(Mr. Brady's prepared statement follows:)

STATEMENT IN BEHALF OF NATIONAL FOREIGN TRADE COUNCIL, INC., RE FOREIGN INVESTMENT INCENTIVE TAX ACT OF 1960

(Presented by Joseph B. Brady, Secretary, NFTC Tax Committee)

Mr. Chairman and members of the committee, my name is Joseph B. Brady. I am secretary of the National Foreign Trade Council's Committee on Taxation. The council, organized in 1914 to promote and protect American foreign trade and business, comprises in its membership manufacturers, merchants, exporters, and importers; rail, sea, and air transportation interests; bankers, insurance underwriters, and others interested in the promotion and expansion of the Nation's foreign commerce.

For a number of years the National Foreign Trade Council has urged and still believes that the proper standard for the taxation of business income from foreign sources is that of territoriality, i.e., the taxation of income only in the country where it is earned. The NFTC also has urged that pending the adoption of this principle the United States should—

(a) Tax business income from foreign sources at a rate 14 points lower than the rate ordinarily applicable to income from domestic sources;

(b) Defer U.S. tax until the income is distributed in the United States;

(c) Allow an election between the per-country and the overall limitations on foreign tax credit;

(d) Conclude tax conventions with additional foreign countries; and

(e) In general, apply a liberal policy with respect to all aspects of taxation which influence U.S. enterprises operating in the foreign field, and refrain from reducing incentives for U.S. foreign trade and business.

Provisions concerning deferral of U.S. taxation have been included in the Foreign Investment Incentive Tax Act of 1960 (H.R. 5, 86th Cong.).

Attention is invited in particular to one amendment, which amendment provides that a corporation would not be eligible as a foreign business corporation if the Secretary of Labor found that it was engaged in production outside of the United States under unfair labor standard conditions. It is believed that the standards contained in the bill are vague, difficult to ascertain, and unrealistic. The provision is a departure from past practice and seems to pose potentially serious administrative problems. The opinion has been expressed on many occasions that invariably American companies operating abroad pay wages that are at least as high, in many cases higher, as those commonly paid in the industry and the country.

The National Foreign Trade Council endorses the principles and objectives of H.R. 5, and urges its enactment into law. This bill proposes changes in U.S. tax law, which if enacted, would assist American firms engaged in foreign trade and business.

Enactment of this measure might cause short-term reductions in revenue. Any such reductions should be evaluated on the basis of supporting data available to inspection and analysis by the Congress and the interested public. The council recommends, however, that these reductions should be balanced against the anticipated incentive effect in in stimulating American foreign trade and business. It believes that the stimulation in American foreign trade and business will enlarge the aggregate of oversea earnings which form the long-term tax base, and limit demands upon public funds for foreign economic assistance.

Tax measures—Appropriate encouragement to U.S. foreign trade and business

Foreign trade and business is a substantial and increasingly important part of the U.S. economic structure. The position of the United States in the world economy makes it an inescapable economic and political fact that U.S. foreign trade and business must be maintained and expanded.

Taxation is recognized as an important factor affecting American foreign trade and business and it can be the determining factor in many cases in deciding whether or not an operation will be entered into. On the municipal and State level in the United States it has been repeatedly found that a favorable tax climate will attract new business and that on the other hand excessive taxation can drive business away. On the international level, many foreign countries, recognizing the tax factor, encourage industrial investment through the medium of tax rate reductions and other tax incentives. The 1959 U.S. Department of Commerce Reportorial Review-Responses To Business Questionnaire Regarding Private Investment Abroad, states that "67 percent of the total * * * replies * * * cite tax incentives as an inducement to greater participation by private individuals and corporations in foreign economic activities." Practically every one of the dozen or so official studies of foreign studies of foreign trade that have been made since World War II have recognized the importance of the tax factor in foreign investment, and many have recommended important changes in the U.S. tax structure.

There is no historical or legal reason why all corporate income from foreign sources must be taxed at least at the U.S. rate. Income from foreign trade and business is initially subject to tax abroad and American companies engaged in foreign trade and business must compete with nationals of the countries in which they are operating and with nationals of third countries, both of whose tax rates may be lower than that in the United States. Officials of foreign countries in which U.S. companis have investments have complained about the U.S. practice of superimposing its tax on income earned in the foreign country. Encouragement and assistance to American foreign trade and business should be a major consideration in any tax regime affecting foreign trade and investment.

The proposals in H.R. 5 if adopted would improve the present tax structure, and should stimulate American foreign business. Another reason for the adoption of H.R. 5 is that it would tend to place our enterprises in a position to better compete with the enterprises of other countries who have encouraged and aided their foreign trade and investment through tax incentives. In this connection, we invite your attention to a memorandum on this subject entitled, "Tax Incentives For Foreign Investments Granted By Other Countries," by Mitchell B. Carroll, special counsel, NFTC Tax Committee, which was included in the report of the hearings before the Subcommittee on Foreign Trade Policy of the Committee on Ways and Means held December 1 to 5, 1958, inclusive, on Private Foreign Investment, page 351 at page 355.

Long-term effect of tax incentives

The National Foreign Trade Council emphasizes that any changes in the taxation of income from foreign sources should be considered from a long-term point of view. It believes that the removal of obstacles to foreign trade and business will enlarge the aggregate of foreign earnings ultimately subject to U.S. taxation.

Conclusion

(1) The basic position of the National Foreign Trade Council is that business income from sources outside the United States should be exempted from U.S. corporate income tax.

(2) H.R. 5 as passed by the House of Representatives should be enacted into law. Consideration should be given to deleting the limiting amendments adopted by the House, particularly the amendments—

(1) Limiting deferrals to income earned in the underdeveloped countries, and

(2) The amendment that if the Secretary of Labor finds it is not adhering to labor standards in the foreign country that deferral is prohibited.

We urge the passage of legislation at this time in the belief that experience after its enactment will demonstrate that the effectiveness of the incentives offered will outweigh any temporary loss of revenue.

Senator LONG. Mr. William Patty of the First National City Bank of New York, accompanied by James W. Riddell.

Do you believe you can summarize your statement, Mr. Patty?

Mr. PATTY. I can read it in about 10 minutes.

Senator LONG. Fine, will you please do that, sir.

STATEMENT OF WILLIAM PATTY, FIRST NATIONAL CITY BANK OF NEW YORK; ACCOMPANIED BY JAMES W. RIDDELL

Mr. PATTY. My name is William A. Patty. I am a member of the firm of Shearman & Sterling & Wright, counsel for the First National Bank of New York. I am accompanied by Mr. James W. Riddell of Dawson, Griffin, Pickens & Riddell, associated with us in this matter.

I would like to thank you gentlemen for this opportunity to appear and present the views of the bank in support of H.R. 5.

The First National City Bank of New York is one of the most active of the U.S. banks doing business abroad. It has some 83 branches in the principal commercial centers of 28 countries throughout the world. By far the greater proportion of its operations abroad are in the so-called less-developed countries. Its operations in developing and financing world trade date from 1897 and in 1914 with the opening of its office in Buenos Aires, it was the first American national bank to establish an oversea branch. Its foreign personnel, numbering approximately 7,000 are active in community affairs and are well known for their constructive contributions to the economies of the countries in which they serve.

Senator LONG. Can you tell me how many American personnel you have serving abroad?

Mr. PATTY. 7,000 I'm sorry, our total personnel is 7,000, a very high percentage of it is foreign. I can't tell you precisely.

Senator LONG. You don't know how many are American citizens, U.S. citizens?

Mr. PATTY. I can't tell you precisely, but I think it is a relatively small percentage.

In hearings on H.R. 5 in July of 1959, before the Committee on Ways and Means, we stated that one of the surest defenses against the further spread of communism would be the strengthening of the economies of our friends and allies abroad, particularly the less developed countries, through the increase of U.S. private investment and trade within their borders. Political developments since those hearings have only served to accentuate the need for modernizing this and every other economic, as well as military weapon in our arsenal.

It is our belief that H.R. 5 will be an important force in this direction, encouraging business that has been reluctant to risk the complexities and uncertainties of foreign incorporation to expand their activities abroad, with resulting benefit to the economies of the lesser developed areas, and thus ultimately to our own. Furthermore, the companies now operating under charters granted by tax haven countries will be able to come home and thus gain the support of the U.S. diplomatic service, the protection of U.S. treaties and the important economic advantages of investment guarantees, as well as the dignity and prestige of a charter under the U.S. flag.

Under H.R. 5 the illogical and discriminatory denial of tax deferral to established oversea businesses, which cannot take advantage of these principles without severe tax penalties, will be removed for businesses in the less developed areas. It will extend to U.S. taxpayers operating in the less developed countries the same tax treatment that other leading commercial countries extend to their nationals operating abroad.

We thus heartily support H.R. 5.

In addition, it has been our experience that the expansion of foreign investment and trade has been materially aided by the activities of the U.S. banking community abroad in making available adequate and modern banking facilities. We believe it is important, therefore, that measures to encourage the expansion of U.S. business in the less developed countries should apply equally to banking. In fact, because the banks are particularly vulnerable to the drastic effects of currency depreciation in some of the most critical of these areas, that it is of special importance that the deferral principles of H.R. 5 apply to the activities of U.S. banks abroad. Some foreign branches of U.S. banks are actually being taxed today at rates far in excess of the 52 percent applicable to other types of business because of the severe depreciation in the value of the local currencies.

In order to make the deferral provisions of H.R. 5 applicable to the banking community, a special provision was included by the Committee on Ways and Means and the House of Representatives. This is section 957 of the deferral provisions of the bill, and I would like to use the balance of the time allotted to me to explain why this section is necessary and its effects.

Historically banks operate abroad largely through branches. Thus of the 80-odd foreign operations of the First National City Bank of New York, only 3 are in corporate form. There are a number of reasons for this, but one of the primary reasons is the fact that foreign depositors expect and rely upon the security of the entire capital funds of the bank in the United States, and this capital strength cannot ordinarily be translated into subsidiaries. Operation through subsidiaries may also limit the amount of credit that can be extended in a particular case, and thus impair the adequacy of the services available. U.S. banking abroad, therefore, unlike most other businesses has followed the branch form, and in the absence of section 957, H.R. 5 would not be available to a large segment of U.S. banking overseas.

Section 957 would permit U.S. banks to elect to report for income tax purposes with respect to a foreign branch as if such branch were a foreign business corporation. The earnings of the elected branch would thus be subject only to the foreign tax until withdrawn from the foreign business. When no longer needed for expansion of the foreign business, it would become subject to U.S. tax just as it now is. Thus provision will thus make it possible for a foreign branch of a U.S. bank to compete on an equal footing with local banking corporations. For example, in one country where incorporation of our branch would not be practicable, the income tax rate applicable to the bank's corporate competitors on a comparable volume of business is 21 percent compared with the 52 percent overall rate applicable to the branch.

Section 957 does not involve radically new tax concepts. Analogous procedures are now provided in section 1361 of the Internal Revenue Code permitting certain proprietorships and partnerships to elect to be taxed as corporations. In fact, section 957 is a simpler provision than section 1361, for many of the complexities created by the multiplicity of individual owners in the case of a partnership do not exist in the case of a branch, which is in effect wholly owned. Nor does the section create any undue administrative burdens, for the accounts of foreign branches of U.S. banks are required to be separately maintained on an arm's length basis under rules prescribed by the Federal banking authorities and are subject to their supervision and control. Thus for all practical purposes it may be said that a foreign branch of an American bank is a separate tax entity.

Section 957 follows closely form of section 1361. Subsection (a) grants an election to any bank as defined in section 581, under conditions to be imposed by regulations, to have its branches which qualify taxed as foreign business corporations. The election procedure provided is similar to that applicable to H.R. 5 generally, and to consolidated returns, a procedure that has proved most satisfactory from an administrative standpoint. Presumably the election would be made at the same time and as a part of the election required under section 951(b). Each branch or combination of branches for which an election is made is referred to as an "elected branch."

To qualify for election, subsection (b) provides that a branch must meet the same tests imposed upon any domestic corporation seeking foreign business corporation treatment. Subsection (c) provides generally that an elected branch is to be treated as a corporation for the purposes of the income tax. For simplicity the more complicated provisions of subchapter C relating to liquidations and reorganizations have been made inapplicable.

Subsection (d) relates to the earliest effective date of the election, and to its termination. It provides that the earliest taxable year to which the branch bank provision will be applicable is the calendar year beginning January 1, 1963. This is 2 years later than the general effective date of H.R. 5. This delay was thought necessary by the Treasury Department to allow time for the preparation of regulations. Since proposed regulations have been promulgated under section 1861, the counterpart of section 957, which could easily be adapted to section 957, it is hoped that this postponement will be eliminated, or at least that the provision will be amended to provide for the advancement of its effective date in the event of the earlier promulgation of regulations. The banks will, of course, cooperate fully with the Treasury in this regard and as a matter of fact we have prepared a preliminary draft of such regulations.

Subsection (e) provides that an elected branch shall be treated for income tax purposes as a foreign business corporation. Subsection (f) provides for proper allocation of deductions and credits to the branch in the computation of its taxable income. Subsection (h) provides for the combination of branches in two or more countries as a single elected branch. Subsection (i) provides for the same dividend received deduction in the case of an elected branch as is provided by section 2(b) of the bill for the foreign business corporation.

In summary, the effect of section 957 is thus simply to put the foreign branch of a bank on a tax parity, generally speaking, with a wholly owned subsidiary corporation. The section recognizes the fact that banks do not have the same freedom of choice in the methods of carrying on business abroad as other types of business, and extends the benefits of the tax deferral principles of H.R. 5 to their foreign branches.

Thank you.

Senator LONG. Thank you. Senator McCarthy, do you have some questions?

Senator MCCARTHY. Is this position you take supported by the other banks?

Mr. PATTY. I believe I can say it is. When this provision was first suggested the Treasury Department asked that the foreign banking community cooperate in its efforts then on this provision, and although I believe there will be statements for the record submitted by the other banks, I can say that the statements I have made here are in accord with their wishes.

Senator MCCARTHY. So far as you know, there are none of them who have objected to it.

Mr. PATTY. That is correct.

Senator McCARTHY. So far as banks involved in domestic business, they are not at all involved in this?

Mr. PATTY. Not at all.

Senator McCARTHY. That is all.

Senator LONG. You referred to tax haven countries, could you name the principal tax haven countries to the best of your knowledge? Panama is one of them, isn't it?

Mr. PATTY. Panama is one. I think Nassau is becoming one.

Senator LONG. What other country?

Mr. PATTY. There are a great many, Liberia, Lichtenstein. To some extent, Switzerland. Well, Canada could be referred to as a tax haven country, the United Kingdom. These are all countries which permit their nationals and other nationals to have an incorporation within their borders and operate in international trade without the imposition of the very high normal tax rates that apply to operations within their borders.

Senator LONG. Now, in most instances when American concerns set up a foreign corporation or a foreign subsidiary in the tax haven country, is that foreign country in position to seize any substantial portion of their assets?

Mr. PATTY. I think that by and large the assets are often held outside the country, but I think that under the operation of international law, it would be uncertain as to what might happen in the event of difficulty there.

Senator LONG. For example, in Panama right now, we see a fair amount of anti-Americanism being stirred up for the local advantage of certain politicians who seek to get themselves elected.

Now, if that anti-Americanism over the Canal Zone issue reaches too high a pitch, and a group goes in that wants to exploit anti-U.S. feeling, it is possible that the position of American companies which have foreign subsidiaries domiciled at Panama could be injured very seriously or prejudiced.

Mr. PATTY. I don't think this could happen in Panama but it could happen in some of the tax-haven countries, and this is the reason why many taxpayers would like to come home to the U.S. flag.

Senator LONG. And from your point of view, it makes better sense to give them treatment in line with that which foreign nations give their companies, and have them under the U.S. flag and have them to do directly aboveboard what they are able to do by use of foreign subsidiaries.

Mr. PATTY. I think it is an anomaly that U.S. citizens are going abroad to demonstrate their business acumen and their know-how, and doing it under a charter of some other country.

Senator McCARTHY. Mr. Chairman, could I ask a question? Has there been any trend in banking going to subsidiaries rather than continuing the branch banking practice or has there been a development in the past years?

Mr. PATTY. As you see we have only three incorporations out of over 80 overseas operations. And I think this is a normal situation.

Senator McCARTHY. Does the fact that there is general unrest particularly in South America today have any effect upon the type of business organization that might be used either subsidiary or branch or some other form of business operation?

The advantage to be under the American flag is a much greater advantage when you have world unrest, is it not?

Mr. PATTY. Of course, that is true, and when we operate as a branch we are under the U.S. flag, but we are denied some of the deferral opportunities, and the opportunity to accumulate additional capital to use there that we could if we could incorporate.

Senator MCCARTHY. The price you have been paying is too high, do you think?

Mr. PATTY. Well, we have had very serious devaluation losses all through Latin America. We have, in effect, been paying at a rate in excess of 52 percent at a time when we are actually losing very substantial sums through the depreciation of currencies.

It has been a costly experience.

Senator MCCARTHY. What has been the trend in other business, nonbanking business?

Mr. PATTY. As between corporation and branch, I think that there are really relatively few other types of business that use the branch approach.

Senator MCCARTHY. That is all, Mr. Chairman.

Senator LONG. I haven't heard much other testimony with regard to this point, and not enough to even know it was in the bill, but you say that this bill would make it possible to put a foreign branch of a U.S. bank to compete on an equal footing with a local banking company, and you mention a situation where the local bank pays, local banks of the country pay a tax of 21 percent and you are paying 52 percent.

Now, would this make it possible for you to pay taxes at 21 percent in that country?

Mr. PATTY. Yes.

Senator LONG. What country would that be to be specific?

Mr. PATTY. I believe this particular one happens to be Colombia.

You see at the present time we pay 21 percent locally and then the balance of 52 percent has to be made up because all of our income of the branch is deemed earned by the U.S. corporation.

If we can separately incorporate we would pay the same tax as the local corporation or as, let's say an English or Dutch corporation incorporated there.

Senator LONG. This bill would let you do that?

Mr. PATTY. That's right.

Senator LONG. Now, when you brought the money back to this country——

Mr. PATTY. Then the full 52 percent U.S. tax would be paid at the time of its withdrawal from the foreign business.

Senator LONG. In other words, when the money comes back to this country you would pay the difference between the 21 percent you had paid and the 52 percent?

Let me ask you this:

So that is again a tax deferral but as long as the money is kept in a foreign country you do not owe the difference between the two.

Mr. PATTY. And used in a foreign business.

Senator LONG. Yes. Thank you very much.

Mr. Richard Munsche, Coca Cola Export Corp.

STATEMENT OF RICHARD MUNSCHE, COCA-COLA EXPORT CORP.

Mr. MUNSCHE. Thank you, Mr. Chairman. I am Richard C. Munsche, assistant secretary of the Coca-Cola Export Corp., and I wish to thank the committee for the privilege of appearing here today.

The purpose of this statement is to express our support for H.R. 5 and to suggest a minor modification of the bill which would in our opinion enable its objectives to be achieved more fully.

The Coca-Cola Export Corp. is a wholly owned subsidiary of the Coca-Cola Co. It was formed in 1930 under the laws of the State of Delaware and is engaged in the manufacture and distribution of the concentrate, syrup, and beverage "Coca-Cola" and other soft drinks outside the United States, Canada, and the Caribbean area.

Its principal office is in New York City. It operates abroad through about 25 branches and a number of foreign subsidiaries.

It is our considered opinion that H.R. 5 should be enacted into law for the following principal reasons:

(1) It permits the use of a domestic corporation to carry on foreign operations with approximately the same U.S. tax treatment as a foreign corporation to the extent income is derived from the less developed countries.

(2) Use of a domestic corporation makes available the benefits of 21 U.S. tax treaties with foreign countries. These benefits are not available to foreign subsidiaries of U.S. companies.

(3) A foreign business corporation would be able to operate in any foreign country through a branch or a local subsidiary, whichever its business and foreign tax interests indicate is the more advantageous.

(4) If the bill were enacted it would not be necessary to complicate the administration of a worldwide business by the injection of the laws of a foreign base country such as Panama, Venezuela, or Liberia to obtain deferment of the U.S. tax until profits were returned to the domestic economy.

However, we wish to point out that the manner in which the benefits of the bill were limited to income from sources within the less developed countries fails to accomplish fully the purpose intended.

The first requirement for the qualification of a foreign business corporation as set forth in the original bill was that the domestic corporation must derive 90 percent or more of its gross income from sources without the United States.

An amendment offered on the floor of the House by direction of the Committee on Ways and Means substituted the requirement that:

> (1) Ninety percent of or more of gross income be derived from sources within the less developed countries.

The effect of this amendment is that an international business would require at least two corporations, one to operate as a foreign business corporation in the less developed countries, the other in the more developed foreign countries.

In our opinion it is much more practical to employ a single corporation as the vehicle for a worldwide business for the following reasons:

(1) Ordinarily the entire foreign business of a U.S. company is managed and operated as a unit. Management would be facilitated

by use of a single corporation for all areas, whether they are deemed to be "developed" or not.

(2) Problems of overhead allocations between the developed and the less developed countries would be greatly simplified by use of a single corporation.

(3) Some employees of companies with an international business necessarily have duties affecting both the developed and less developed countries. Separate companies would lead to complications in setting salaries payable by each company, and would result in difficulties under retirement, profit-sharing, group life insurance, and similar employee benefit plans.

(4) Changes in classification of a foreign country as developed or underdeveloped could require occasional or frequent reorganizations unless income from both the developed and the undeveloped countries could be received by the same corporation. It might be mentioned that reorganizations of U.S. companies involving foreign operations are vastly more complicated than reorganizations involving only domestic operations.

(5) Most important of all from the standpoint of carrying out the objectives of the bill, tax-paid profits from the developed countries could not readily be channeled into investments in the less developed countries. For example, the former profits—profits from the more developed countries—would have to be distributed as dividends to the U.S. parent company and then invested by the latter in the foreign business corporation operating in the less developed countries.

Senator Javits today has stressed the importance of permitting profits from the developed countries to flow unimpeded into the underdeveloped countries. The amendment we proposed would accomplish this.

It is suggested that there are two possible solutions. First, the geographical restrictions could be eliminated by reinstating the original requirement that 90 percent of gross income be from sources outside the United States, and by permitting deferment on all income from sources outside the United States. Income from sources within the developed countries is ordinarily subject to a high rate of tax (United Kingdom, over 51 percent; France, 50 percent; Holland, 47 percent; Germany, usually over 52 percent). There would be, therefore, relatively little loss of U.S. tax revenue (after deducting the foreign tax credits) in permitting deferment with respect to the more developed countries.

If, however, it is still desired to limit the deferment benefit to income from sources within the less developed countries, it is possible to achieve this objective through use of a single foreign business corporation by a few simple amendments as follows:

First, instead of the single requirement that 90 percent or more of gross income be from sources within the less developed countries, the provision could be changed to require that only 10 percent or perhaps 20 percent of gross income be derived from sources within the less developed countries, and in addition thereto, that 90 percent of gross income should be from sources outside the United States.

The deferment of tax would still apply only to income from sources within the less developed countries. Income from sources within the

United States and the more developed countries would be subject currently to tax at ordinary rates.

Second, under the House bill all dividends paid to a U.S. parent company by a foreign business corporation out of reinvested foreign business income account are eligible for the 100 percent dividends received deduction. This treatment is premised on the requirement that substantially all—90 percent—of the gross income of the foreign business corporation be from sources in the less developed areas.

If only a minor portion of the income of a foreign business corporation need be from sources within the less developed countries, as suggested, it would be reasonable to consider each dividend paid to a U.S. corporate stockholder as being paid proportionately out of earnings from sources within (i) the United States and the developed countries and (ii) the less developed countries.

Dividends received out of earnings of the foreign business corporation from sources within the United States and the developed countries would receive the usual 85 percent dividends received deduction and the parent company would usually pay the intercorporate dividend tax of 7.8 percent—15 percent of 52 percent.

Dividends received by the U.S. parent company out of earnings of the foreign business corporation from sources in the less developed countries would be taxed to the foreign business corporation at the full U.S. corporation income tax rate, usually 52 percent, less credit for foreign income taxes. If for example the average foreign income taxes paid by the foreign business corporation on its income from sources in the less developed countries were 10 percent, the foreign business corporation would pay U.S. tax of 42 percent, that is 52 percent less 10 percent.

Third. A number of minor conforming amendments would also be required, as shown on a schedule attached to the prepared statement, which we ask to be made a part of the record of these hearings.

(The document referred to follows:)

ATTACHMENT TO STATEMENT OF RICHARD C. MUNSCHE, ASSISTANT SECRETARY, THE COCA-COLA EXPORT CORP.

SUGGESTED AMENDMENTS TO H.R. 5

(To put into effect alternative proposal (b) per attached statement)

(1) Strike out proposed section 951(a)(1) and insert "(1) It derives 90 percent or more of its gross income from sources without the United States and 10 percent or more of its gross income from sources within less developed countries (within the meaning of section (e))".

(2) Strike out "within less developed countries" in proposed section 951(a)(2)(D)(i) and insert "without the United States".

(3) Strike out "within less developed countries" in proposed section 951(a)(2)(D)(ii) and insert "without the United States".

(4) Strike out "within less developed countries" in proposed section 951(c)(1)(C) and insert "without the United States".

(5) Strike out "Within Less Developed Countries" in proposed section 951(c)(2) and insert "Foreign".

(6) Amend the first sentence of 954(a) to read as follows: "For purposes of this subpart, the amount of any distribution to shareholders shall be treated as made out of reinvested foreign income in the proportion which the earnings and profits from sources within less developed countries for the taxable year out of which the distribution was made bears to the total earnings and profits from all sources for such taxable year."

(7) Strike out "without less developed countries" in proposed section 954(b) and insert "within the United States".

(8) Strike out 'within less developed countries" in section 954(c)(4)(A) and insert "without the United States".

To summarize, we support the bill on the ground that it would eliminate in part the discrimination in the present law in favor of foreign corporations over domestic companies operating outside the United States.

The laudable purpose of encouraging U.S. investment in the less-developed countries can be augmented without loss of revenue This can be done by requiring that at least 90 percent of gross income be derived from sources outside the United States and only 10 percent of gross income be derived from sources in the less-developed countries. Thank you very much.

Senator LONG. Thank you.

Senator McCARTHY. I have no questions.

Senator LONG. Thank you; that is all.

I believe it would be better to hear the remaining two witnesses, Mr. Elliott Haynes and Mr. Sherwood Selliman, about 2:30 this afternoon.

I believe we could do better justice to you if we took a recess now and came back at 2:30.

(Whereupon, at 12:55 p.m., the hearing was recessed, to reconvene at 2:30 p.m. of the same day.)

AFTERNOON SESSION

Senator LONG. I am going to call these hearings to order. There will be some of the other Senators along before we conclude.

Mr. Elliott Haynes, editor of Business International. Do you have a prepared statement, Mr. Haynes?

STATEMENT OF ELLIOTT HAYNES, EDITOR, BUSINESS INTERNATIONAL

Mr. HAYNES. I do, Senator, and I apologize for the fact that it was not mimeographed over the weekend. Apparently I was the only delinquent who did not find a mimeograph machine over the weekend, but I will with your permission file a mimeographed statement later.

Senator LONG. All right, anyone else who would like to supplement their statement, is invited to do so.

We may find it necessary to conduct additional hearings on this bill; but unless there is some request or insistence along this line, I hope we can conclude these hearings today and anyone who wants to supplement his statement, can file it and we will put it in the record.

Mr. HAYNES. I am Elliott Haynes, editor of Business International. Business International reports and interprets to U.S. business executives the events and trends throughout the world they must know about and understand to conduct their international business properly and efficiently.

To do this we have 70 correspondents in the major commercial centers of the free world, a Washington editor, area editors and researchers in New York and offices in Chicago and San Francisco.

We also publish research studies in the field of international trade and investment. Finally we provide consultation on a continuing basis to 75 major U.S. corporations with extensive operations abroad. A list of these clients will appear in my statement that I will file.

Of course, nothing I say today should be interpreted as representing the views of any individual subscriber or client.

Mr. Chairman, before I begin my prepared statement, I would like to make brief reference to a question I believe Senator McCarthy asked in reference to how soon the postponed taxes would come back to this country. I believe that 5 years is a fairly good average figure, because many companies I know about personally have investment plans which end within that period and then plan to bring back all their earnings.

But it really would not be a $40 million annual loss, as the Treasury suggests, even before that 5-year period was up, because, immediately, the investments stimulated by H.R. 5 would bring back royalty income, increase some exports, and all of that income of course would be taxable.

Finally, at the end of 5 years it would not be $40 million that came back, but a great deal more than that because of the increased earnings the interim investments would create. It might even be in the neighborhood of $80 million return if we assume $40 million as the right figure.

I am here to testify on behalf of H.R. 5, and I would like to compliment the chairman on his action in granting time so promptly for hearings on this bill in the midst of the committee's work on other important pieces of legislation.

The significance of H.R. 5 far transcends the modest amount of taxation loss it would provide, which helps to explain the remarkable backing it enjoys in every major sector of American life.

Given the pressure of work of this committee, these hearings will allow only a few U.S. corporations to appear and explain their support of H.R. 5. Therefore, I would like to call attention to the truly extraordinary list of companies that supported this legislation contained in the record of the hearings before the House Committee on Ways and Means. It is one of the most impressive lists of firms in support of a proposed law that I have ever seen.

Senator LONG. Will you place that in the record if you want to.

Mr. HAYNES. I will. Thank you very much.

(The list referred to follows:)

ACCO Products, Inc., Riverside Drive, Ogdensburg, N.Y.—G. Donald Murray, vice president and export manager.

Airkem, Inc., 241 East 44th Street, New York, N.Y.—Albert R. Perry, Jr., secretary and director, international division.

Akron Brass Manufacturing Co., Inc., Wooster, Ohio—J. E. Fishelson, president.

Allied Asbestos & Rubber Co. (export) Inc., 500 Fifth Avenue, New York, N.Y.—Kenneth Baer, vice president.

Allen-Bradley Co., 155 East 44th Street, New York, N.Y.—D. W. A. Pleasanton, export manager.

E. D. Allmendinger, Inc., 10 Bridge Street, New York, N.Y.—Edwin M. Allmendinger, manager.

Bernhard Altmann Corp., 111 Fifth Avenue, New York, N.Y.—C. Altmann.

American Beverage & Supply Corp., 1423 Naomi Street, Indianapolis, Ind.—Preston G. Woolf, president.

American Levant Machinery Corp., 25 West 43d Street, New York, N.Y.—David Levine, president (and general counsel).
American Marietta Co., 101 East Ontario Street, Chicago, Ill.—Robert M. Carmac, manager, foreign operations.
American Paper & Pulp Co., Inc., 300 Fourth Avenue, New York, N.Y.—A. Greiner, president.
Armco International Corp., Middletown, Ohio—A. R. Edwards, president.
Atlas Asbestos Co., North Wales, Pa.—W. H. Johnston, general manager.
Reinhold A. Auerbach, Inc., 44 North Second Street, Easton, Pa.—Reinhold A. Auerbach, president.
Avery Adhesive Products, Inc., Monrovia, Calif.—F. J. Lehbruner, foreign operations manager.
B. I. F. Industries, Inc., 345 Harris Avenue, Providence, R.I.—J. R. Shoesmith, export manager.
Barnet-Reef Associates, Inc., 445 Park Avenue, New York, N.Y.—Arthur Reef, executive vice president.
Cameron Machine Co., Franklin Road, Dover, N.J.—Edgar Jadwin, vice president.
Central Paint & Varnish Works, Inc., 50 Prospect Street, Brooklyn, N.Y.—L. Francis Case, president.
Celanese Corp. of America, 180 Madison Avenue, New York, N.Y.—L. S. Apsey, general attorney.
Chicago Bridge & Iron Co., 1305 West 105th Street, Chicago, Ill.—Horace B. Horton, chairman.
Bell & Gossett Co., Midland Park, Ridgewood, N.J.—Donald C. Broadwell, export manager.
Otto Berns Co., Inc., 280 Lyell Avenue, Rochester, N.Y.—William Mendolik, comptroller.
Bodine Corp., 317 Mountain Grove, Bridgeport, Conn.—A. V. Bodine, president.
Brandtjen & Kluge, Inc., 653 Galtier Street, St. Paul, Minn.
Buckman Laboratories, Inc., 1256 North McLean Boulevard, Memphis, Tenn.—C. U. Turner, treasurer.
Buffington's, Inc., 8 Sudbury Street, Worcester, Mass.—Maurice Hazan, export manager.
Burndy Corp., Norwalk, Conn.—S. M. Loomis, vice president, finance.
Beatrice Foods Co., 120 South LaSalle Street, Chicago, Ill.—Walter L. Dilger, vice president.
The Borden Co., 350 Madison Avenue, New York, N.Y.—Edwin S. Patience, controller.
Barnstead Still & Sterilizer Co., Forest Hills, Boston, Mass.—Norman Meyer, advertising manager.
The Black & Decker Mfg. Co., East Pennsylvania Avenue, Towson, Md.—J. E. Hardesty, vice president and treasurer.
Davey Compressor Co., 600 Franklin Avenue, Kent, Ohio—J. T. Myers, vice president and treasurer.
John B. Stetson Co., Fifth and Montgomery, Philadelphia, Pa.—George Witchell, assistant vice president.
Foremost Dairies, Inc., 2908 College Street, Jacksonville, Fla.—B. J. Campbell, vice president and comptroller.
Chicago Pharmacal Co., 5547 North Ravenswood Avenue, Chicago, Ill.—A. J. Vargas, director of international operations.
Cities Service Co., 60 Wall Street, New York, N.Y.—George H. Hill, Jr., vice president.
W. A. Cleary Corp., New Brunswick, N.J.—G. W. Bateman, treasurer (PO Box 749).
The Coleman Co., Inc., 250 North St. Francis Avenue, Wichita, Kans.—L. F. Banowetz, corporation counsel and assistant secretary.
The Dahlberg Co., Golden Valley, Minneapolis, Minn.—K. H. Dahlberg, president.
Dan River International Corp., 1407 Broadway, New York, N.Y.—E. T. Martin, secretary.
Day's Tailor-D Clothing, Inc., 2902 South A Street, Tacoma 1, Wash.—John Slikas, treasurer.
Diamond Gardner Corp., 122 East 42d Street, New York, N.Y.—E. T. Gardner, Jr., vice president.
Dorr-Oliver, Inc., Barry Place, Stamford, Conn.—Arthur Terry Jr., consultant, international operations.

Equipment International, Inc., Akron, Ohio—J. Millet, export manager.

Esco International, 420 Lexington Avenue, New York, N.Y.—Ed T. Hewitt, vice president.

The Esterbrook Pen Co., Delaware Avenue and Cooper Street, Camden, N.J.—Philip E. Scott, executive vice president.

Federal-Mogul-Bower Bearings, Inc., 11031 Shoemaker Avenue, Detroit, Mich.—S.E. MacArthur, vice president, finance.

Frank H. Fleer Corp., 10th and Somerville, Philadelphia, Pa.—W. E. Diemer, vice president.

The Fluor Corp., Ltd., 2500 South Atlantic Boulevard, Los Angeles, Calif.—J. S. Fluor, president.

Fram Corp., 105 Pawtucket Avenue, Providence, R.I.—T. H. Belling, president.

Formlit Co., 400 South Peoria Street, Chicago, Ill.—Frank J. Culhane, treasurer.

General Dyestuff Co., 435 Hudson Street, New York, N.Y.—G. E. Neisser, export manager.

The Glidden Co., 900 Union Commerce Building, Cleveland, Ohio—R. W. Horner, secretary; H. L. Slaughter, vice president; John Weekes, vice president; L. D. Golden, attorney.

Girdler Process Equipment (division of Chemetron), Commonwealth Building, Louisville, Ky.—E. J. Beck, manager, oversea operations.

Great Lakes Carbon Corp., 612 South Flower Street, Los Angeles, Calif.—D. L. Marlett, vice president.

Halliburton Oil Well Cementing Co., Box 1431, Duncan, Okla.—G. D. McEnroe, treasurer.

The Harshaw Chemical Co., 1945 East 97th Street, Cleveland, Ohio.—C. S. Parke, president.

Henningsen Bros., Inc., 347 Madison Avenue, New York, N.Y.—Roy Nevans, export manager.

Honeymead Products Co., Excelsior, Minn.—D. O. Andreas, chairman.

Huntington Laboratories, Inc., Huntington, Ind.—J. L. Brenn, president.

The Imperial Export Co., Inc., 44 Whitehall Street, New York, N.Y.—F. Luria, president.

Industrial Filter & Pump Manufacturing Co., Foreign Sales Division, 5900 Ogden Avenue, Chicago, Ill.—J. F. Sievers, president.

Insular Lumber Co., 1405 Locust Street, Philadelphia, Pa.—H. S. Thompson, president.

Intercontinental Equipment Co., Inc., 120 Broadway, New York, N.Y.—R. M. Dubois, president.

International Business Associates, 545 Fifth Avenue, New York, N.Y.

International Products Corp., 29 Broadway, New York, N.Y.—Thomas J. Lenihan, vice president; Samuel Nakasian, executive vice president.

W. P. Iverson & Co., Inc., 11 Broadway, New York, N.Y.—W. P. Iverson, president.

Jackson & Moreland International, Inc., 600 Park Square Building, Boston, Mass.—O. S. Bray, president.

Jean-Claude Porson, 550 Fifth Avenue, New York, N.Y.—Jean-Claude Porson, president.

J. A. Jones Construction Co., 209 West Fourth Street, Charlotte, N.C.—Edwin L. Jones, president.

Killashun Export Division (The Akwell Corp.), 99 Wall Street, New York, N.Y.—Mathew G. Mizza, secretary-treasurer.

Koehring Export Division, 3026 West Concordia Avenue, Milwaukee, Wis.—R. J. Cere [not legible], sales manager.

Koehring Co., 1701 West Wisconsin, Milwaukee, Wis.—O. R. Mertz, vice president, finance.

Kretzer Construction Co., Inc., 32-15 Lawrence Street, Flushing, N.Y.—Frederick W. Kretzer, vice president.

Lakeside Laboratories, Inc., 1707 East North Avenue, Milwaukee, Wis.—Gerald Goelzer, treasurer.

Lewis Diesel Engine Co., 92 West Carolina Avenue, Memphis, Tenn.—Frank N. Lewis, executive vice president.

Lindor International Corp., 9 East 45th Street, New York, N.Y.—Lazare Gelin, president.

Lion Manufacturing Co., 2640 West Belmont, Chicago, Ill.—M. Jenkins, assistant to president.

Login International Corp., Gainsborough Building, San Francisco, Calif.—Richard N. Bale.

McGraw-Hill International, 330 West 42d Street, New York, N.Y.—Walter H. Diamond.
Maico Co., Inc., 21 North Third Street, Minneapolis, Minn.—L. A. Watson, president.
E. D. Magnus & Associates, Inc., 188 West Randolph Street, Chicago, Ill.—E. D. Magnus, president.
Manning, Maxwell & Moore, Inc., Stratford, Conn.—John A. Flynn, controller.
Marmon-Herrington Co., Inc., 1411 West Washington Street, Indianapolis, Ind.—D. M. Kausmeyer, president.
Marsh & McLennan, Inc., 70 Pine Street, New York, N.Y.—F. A. Mayes, vice president.
Monsen & Freeman, 70 Pine Street, New York, N.Y.—Richard P. Monsen, partner.
Motion Picture Association of America, Inc., 28 West 44th Street, New York, N.Y.—Kenneth Clark, vice president.
National Casket Co., Inc., 60 Massachusetts Avenue, Boston, Mass.—F. O. McKee, president.
National Oats Co., Cedar Rapids, Iowa.—James Cooper, president.
Neuert, Wilton & Associates, Inc., 82 West Randolph Street, Chicago, Ill.—Hans Neuert, president.
New York & Honduras Rosario Mining Co., 120 Broadway, New York, N.Y.—Robert M. Reininger, president.
O'Brien Machinery Co., 1545 North Delaware Avenue, Philadelphia, Pa.—Frank L. O'Brien, Jr., president.
Harold L. Oram, Inc., 8 West 40th Street, New York, N.Y.—Harold L. Oram, president; Gilbert Jonas, vice president.
S. B. Penick & Co., 100 Church Street, New York, N.Y.—J. G. Flanagan, vice president.
Pennsalt Chemicals Corp., International Division, 3 Penn Center Plaza, Philadelphia, Pa.—William L. Purfield, controller.
The Pittston Co., 250 Park Avenue, New York, N.Y.—C. J. Routh, vice president.
Plough, Inc., 3022 Jackson Avenue, Memphis, Tenn.—Harry B. Solmson, executive vice president.
Porter International Co., 1025 Connecticut Avenue NW., Washington, D.C.—Paul R. Porter, president.
Pressed Steel Tank Co., West Allis Station, Milwaukee, Wis.—Norman Fritz, attorney.
Reliable Spring & Wire Forms Co., 3167 Fulton Road, Cleveland, Ohio.—H.W. McBridge, president.
Rennsit Home Products Co., 1724 Chestnut Street, Philadelphia, Pa.—Office manager.
Rheem Manufacturing Co., 477 Madison Avenue, New York, N.Y.—Mario Capelli, vice president, international division.
Reichhold Chemicals, Inc., 525 North Broadway, White Plains, N.Y.—Fred A. Jolles, vice president.
Rice Barton Corp. 65 Tainter Street, Worcester, Mass.—A. J. Gardner, vice president.
Rockwell Engineering Co., 13500 South Western Avenue, Blue Island, Ill.—A. J. Rudis, president.
Vincent T. Rolon, 73 Elbert Street, Ramsey, N.J.
A. M. Romero Corp., 350 Fifth Avenue, New York, N.Y.—A. M. Romero, president.
Rust-Oleum Corp., 2425 Oakton Street, Evanston, Ill.—Robert A. Fergusson, president.
St. Regis Paper Co., 150 East 42d Street, New York, N.Y.—J. W. Cowels, treasurer.
L. D. Seymour & Co., Inc., 120 Wall Street, New York, N.Y.—Paul E. Monath, executive vice president.
Sheraton Corp. of America, 470 Atlantic Avenue, Boston, Mass.—Kenneth B. Newton.
Simplex Time Recorder Co., 26 South Lincoln Street, Gardner, Mass.—L. A. Robinson, export manager.
Simplex Valve & Meter Co., 7 Orange Street, Lancaster, Pa.—Thomas P. Browne, vice president.
Smith, Kirkpatrick & Co., Inc., 47 Beaver Street, New York, N.Y.—Carlton A. Hobloch, treasurer.

Solem Machine Co., 658 Race Street, Rockford, Ill.—Peter A. Solem, president.
Sundstrand International Corp., 11th Street, Rockford, Ill.—O. E. Mayfield, vice president.
Sweeney Lithograph Co., Inc., 358 Crown Street, Brooklyn, N.Y.—John A. Wilkens, vice president.
Texaco, Inc., 135 East 42d Street, New York, N.Y.—M. J. Epley, Jr., vice president.
The Thew Shovel Co., 1374 East 28th St., Lorain, Ohio—F. S. Battin, export manager.
Thomas Electronics, Inc., 118 Ninth Street, Passaic, N.J.—Ivan J. Paner, manager, export sales.
Thor Power Tool Co., 250 West 57th Street, New York, N.Y.—E. R. Wyler, vice president, director of exports.
Tifco Inter America Corp., 1080 West Gray, Post Office Box 18801, Houston, Tex.—Louis Low, president.
Topflight Corp., York, Pa.—E. W. Huber, president.
Tow Motor Corp., 1226 East 152d Street, Cleveland, Ohio—Galen Miller, executive vice president.
Transcontinental Commodities, Inc., 405 Lexington Avenue, New York, N.Y.—I. Arditi, president.
Tung-Sol Electric, Inc., 95 Eighth Avenue, Newark, N.J.—C. F. Rork, manager, international division.
Tyler Refrigeration International C. A., 1315 Lake Street, Niles, Mich.—J. R. Alvarez, administrative president.
United Merchants & Manufacturing Co., 1407 Broadway, New York, N.Y.—Martin J. Schwab, treasurer.
Verti-Det, Inc., Box 428, Midland, Mich.—Paul W. Ieke, vice president, foreign operations.
Warner & Swasey Co., 5701 Carnegie Avenue, Cleveland, Ohio—L. M. Cole, vice president.
Trans World Airlines, 380 Madison Avenue, New York, N.Y.—J. Woodward Thomas, vice president.
Soiltest, Inc., 4711 West North Avenue, Chicago, Ill.—Theodore Van Zelst, president.
The Seven-Up Co., 183 Delmar Boulevard, St. Louis, Mo.—Howard E. Ridgway, vice president.
Weco Products Co., 20 North Wacker Drive, Chicago, Ill.—R. L. Deibel, vice president.
Worthington Corp., Harrison, N.J.—S. B. Williams, vice president, international operations.
The Wurlitzer Co., North Tonawanda, N.Y.—R. C. Rutzen, export sales manager.
The World Trade Center in New England, Inc., 470 Atlantic Avenue, Boston, Mass.—Carl E. Christopherson, manager, international department.
The Wilcolator Co., 1001 Newark Avenue, Elizabeth, N.J.—R. C. Miles, assistant treasurer.
Henry Weis Manufacturing Co., Inc., 941 Oak Street, Elkhart, Ind.—Keator McCubbin, president.
Stahl-Meyer, Inc., 172 East 127th Street, New York, N.Y.—William J. Elbert, controller.
Signal Oil & Gas Co., 811 West 7th Street, Los Angeles, Calif.—J. H. Marshall, vice president.
Security-Columbian Banknote Co., 500 South Ashland Avenue, Chicago, Ill.—Fred R. Esty, president.
Howard, Weil, Labouisse, Friedrichs & Co., 222 Carondelet Street, New Orleans, La.—G. Shelby Friedrichs, partner.
Westrex Corp., 111 Eighth Avenue, New York, N.Y.,—Roland A. Colistra, comptroller.
Bendix Aviation Corp., 30 Rockefeller Plaza, New York, N.Y.—Vice president, Charles Tillinghast.
Henry A. Correa, vice president, ACF Industries, Inc., 750 Third Avenue, New York, N.Y.
Mr. Norman E. Johnson, vice president, Admiral International Corp., 3800 Cortland Street, Chicago, Ill.
Mr. F. M. Davison, assistant treasurer, Aeroquip Corp., Jackson, Mich.
Mr. C. R. MacInnes, export manager, Air-Shields Inc., Hatboro, Pa.

Leon E. Hickman, Esq., executive vice president, Aluminum Co. of America, 1501 Alcoa Building, Pittsburgh, Pa.
Mr. Ernest G. Hesse, director, international division, American Cyanamid Co., 30 Rockefeller Plaza, New York, N.Y.
Mr. Harry Onufrock, director of international operations, American Greetings Corp., 1300 West 78th Street, Cleveland, Ohio.
Frank X. White, vice president, American Machine & Foundry Co., 261 Madison Avenue, New York, N.Y.
Mr. Weston Thomas, executive vice president, American Metal Climax, Inc., 61 Broadway, New York, N.Y.
Mr. John K. Miller, director, foreign divisions, American Radiator & Standard Sanitary Corp., 40 West 40th Street, New York, N.Y.
Mr. Werner Ammann, partner, Ammann & Whitney Consulting Engineers, 111 Eighth Avenue, New York, N.Y.
Mr. Robert P. Barnett, general manager, international division, Atlas Powder Co., Wilmington, Del.
Mr. Harold D. Naideau, director, international division, Avon Products, Inc., 30 Rockefeller Plaza, New York, N.Y.
Mr. Benjamin T. Wright, assistant secretary, Badger Manufacturing Co., 363 Third Street, Cambridge, Mass.
Mr. E. M. Boggess, export manager, Baker Oil Tools, Inc., Post Office Box 2274, Terminal Annex, Los Angeles, Calif.
Mr. A. B. Kight, vice president, Borg-Warner International Corp., 36 South Wabash Avenue, Chicago, Ill.
Brown & Williamson, Tobacco Corp., 1600 West Hill Street, Louisville, Ky.
F. L. Donoghue, vice president, finance, Brunswick International, C. A., 623 South Wabash Avenue, Chicago, Ill.
R. Harvey Whidden, vice president, marketing division, Bulova Watch Co., Inc., Bulova Park, Flushing, N.Y.
Arthur H. Phillips, secretary and general counsel, Godfrey L. Cabot, Inc., 77 Franklin Street, Boston, Mass.
J. R. Strassburger, treasurer, Chain Belt Co., Milwaukee, Wis.
W. E. Schirmer, vice president, Clark Equipment Co., Buchanan, Mich.
Joseph Klein, vice president, Clary Corp., San Gabriel, Calif.
Dr. Semi J. Begun, director of marketing, Clevite Corp., 17000 St. Clair Avenue, Cleveland, Ohio.
R. C. Munsche, assistant secretary, the Coca-Cola Export Corp., 515 Madison Avenue, New York, N.Y.
P. C. Foote, president, Cutler-Hammer International, C. A., 270 North 12th Street, Milwaukee, Wis.
W. A. Crickly, controller, Diamond Alkali Co., 99 Park Avenue, New York, N.Y.
Rafael Ordorica, vice president, Dumas Milner Corp., Post Office Box 10027, Northside Station, Jackson, Miss.
Joseph Kattan, vice president, Emerson Radio Export Corp., 14th and Coles Streets, Jersey City, N.J.
A. W. Elwood, president, FMC International, Post Office Box 1178, San Jose, Calif.
Maurice E. Ash, president, FWD Corp., Clintonville, Wis.
Clifford M. Andrews, vice president, foreign operations, Ferro Corp., 4150 East 56th Street, Cleveland, Ohio.
The First National City Bank of New York, 55 Wall Street, New York, N.Y.
Charles Schwarzler, manager, international operations, the Foxboro Co., Foxboro, Mass.
J. E. Hulick, president, Gahagan Dredging Corp., 90 Broad Street, New York, N.Y.
H. C. Borghetty, general manager, international, General Aniline & Film Corp., 435 Hudson Street, New York, N.Y.
R. P. Winchell, manager, foreign operations, Liquid Carbonic Division, 135 South LaSalle Street, Chicago, Ill.
Joseph Andreoli, vice president, the General Tire & Rubber Co., Akron, Ohio.
C. F. O'Neil, vice president, the General Tire & Rubber Co., Akron, Ohio.
W. G. Phillips, treasurer, the Glidden Co., 900 Union Commerce Building, Cleveland, Ohio.
K. A. Lawder, treasurer, W. R. Grace & Co., 7 Hanover Square, New York, N.Y.
A. H. Weiss, tax manager, Harnischfeger Corp., 4400 West National Avenue, Milwaukee, Wis.
Jacque Jones, president, Huber-Warco Co., Marion, Ohio.

Industrial Nucleonics Corp., 1205 Chesapeake Avenue, Columbus, Ohio.
J. S. Maxwell, assistant comptroller, International Paper Co., 220 East 42d Street, New York, N.Y.
S. Harley Jones, president, E. D. Jones Corp., Pittsfield, Mass.
Chad F. Calhoun, vice president, Kaiser Industries Corp., 1625 I Street NW., Washington, D.C.
D. R. Beaman, assistant vice president, Kimberly-Clark Corp., Neenah, Wis.
Miss Ann Repke, export manager, Kirsch Co., Sturgis, Mich.
F. B. Varga, vice president, Koppers Co., Inc., 835 Porter Building, Pittsburgh, Pa.
E. M. Everhard, vice president, Libby-Owens-Ford Glass Co., 608 Madison Avenue, Toledo, Ohio.
The Lubrizol Corp., Box 3057, Euclid Station, Cleveland, Ohio.
O. F. Breer, vice president, McCulloch Corp., 6101 West Century Boulevard, Los Angeles, Calif.
P. O. Klein, president, Mercator Corp., 607 Washington Street, Post Office Box 142, Reading, Pa.
Chas. B. Meech, vice president, International Division, Minneapolis-Honeywell Regulator Co., 2753 Fourth Avenue South, Minneapolis, Minn.
M. H. Patterson, vice president, Minnesota Mining & Manufacturing Co., 900 Bush Avenue, St. Paul, Minn.
Robert Blake, president, Minute Maid International, 420 Lexington Avenue, New York, N.Y.
Bernard F. Combemale, president, Monmouth-Lee Corp., 730 Fifth Avenue, New York, N.Y.
Bernard Melitz, vice president and general counsel, Moog Industries, Inc., 6565 Wells Avenue, St. Louis, Mo.
Paul S. Rupert, manager, foreign market development, Moore Business Forms, Inc., 210 Post Street, San Francisco, Calif.
N. J. Mead, vice president, Morningstar-Paisley Inc., 630 West 52d Street, New York, N.Y.
Walter K. Davies, coordinator of foreign operations, Neptune Meter Co., 630 Fifth Avenue, New York, N.Y.
S. W. White, Jr., president, Oliver International S.A., 444 West Madison Street, Chicago, Ill.
John L. Gushman, vice president, Owens-Illinois Glass Co., Post Office Box 1035, Toledo, Ohio.
Lewis A. Curtis, president, Package Machinery Co., 330 Chestnut Street, East Longmeadow, Mass.
William A. Ward, Foreign Division, Palm Beach Co., Knoxville, Tenn.
John A. Bouvier, Jr., chairman and president, the Pantex Manufacturing Corp., 521 Roosevelt Avenue, Central Falls, R.I.
H. A. Schaefer, administrative vice president, Pepsi-Cola International Ltd., 3 West 57th Street, New York, N.Y.
A. B. Sparboe, vice president, the Pillsbury Co., Minneapolis, Minn.
E. P. Wilmsen, vice president and treasurer, Portable Electric Tools, Inc., 320 West 83d Street, Chicago, Ill.
A. A. Lodigensky, managing director, exports, H. K. Porter, 300 Park Avenue, New York, N.Y.
A. P. McDiarmid, treasurer, Ranco Inc., 601 West Fifth Avenue, Columbus, Ohio.
Stanley Applegate, director, International Division, Red Star Yeast & Products Co., 221 East Buffalo Street, Milwaukee, Wis.
Ernest E. Rollman, secretary-treasurer, Ro-Search, Inc., Waynesville, N.C.
R. J. Mason, Jr., secretary-treasurer, Sealed Power Corp., 2001 Sanford Street, Muskegon, Mich.
Charles A. Meyer, vice president, Sears, Roebuck & Co., 925 South Homan Avenue, Chicago, Ill.
John D. Sheaffer, vice president, W. A. Sheaffer Pen Co., 301 Avenue H, Fort Madison, Iowa.
David Gregg, Jr., vice president, International Division, Shulton, Inc., Clifton, N.J.
A. B. West, assistant treasurer, the Singer Manufacturing Co., 149 Broadway, New York, N.Y.
C. C. Crittenden, president, Signode Steel Strapping Overseas Co., 2610 North Western Avenue, Chicago, Ill.

Basil Manousso, manager, International Division, Sinclair & Valentine Co., 611 West 129th Street, New York, N.Y.
W. A. Mihelich, export manager, Skil Corp., 5033 Elston Avenue, Chicago, Ill.
Edgar W. Smith, Lake Road, R.F.D. 1, Morristown, N.J.
John J. Gilbert, treasurer, Smith Kline & French Overseas Co., 1530 Spring Garden Street, Philadelphia, Pa.
Louis B. Harder, president, South American Gold & Platinum Co., 535 Fifth Avenue, New York, N.Y.
W. M. Adams, president, Sprague International, Ltd., North Adams, Mass.
A. O. Kracklauer, president, Sparkler Manufacturing Co., Lake Street, Mundelein, Ill.
James A. Bowles, assistant treasurer, Spencer Chemical Co., 610 Dwight Building, Kansas City, Mo.
Roger W. Barton, export manager, Stephens-Adamson Manufacturing Co., Aurora, Ill.
E. G. Strasenburgh, vice president, R. J. Strasenburgh, Post Office Box 1710, Rochester, N.Y.
N. N. Babcock, treasurer, Talon, Inc., Meadville, Pa.
L. P. Garrigan, manager, International Division, Textile Machine Works, Reading, Pa.
Bernard Kearney, president, The Torsion Balance Co., 35 Monhegan Street, Clifton, N.J.
C. P. Andrews, assistant secretary-assistant treasurer, Turco Products, Inc., 6135 South Central Avenue, Los Angeles, Calif.
G. L. Shuman, vice president, sales and secretary, Twin Disc Clutch Co., Racine, Wis.
Robert S. Wright, president, International Division, U.S. Industries, 250 Park Avenue, New York, N.Y.
J. M. A. van der Horst, president, Van der Horst Corp., Post Office Box 557, Olean, N.Y.
Merrill Zinser, vice president, finance, Varian Associates, 617 Hanson Way, Palo Alto, Calif.
Hans D. Winzer, manager, foreign operations, Warner Electric Brake & Clutch Co., Beloit, Wis.
Robert M. Mitchell, vice president, Whirlpool Corp., St. Joseph, Mich.
Charles P. Williams, executive vice president, Williams Bros. Co., National Bank of Tulsa Building, Tulsa, Okla.
J. S. Schastey, treasurer, American Chicle Co., 30-30 Thomson Avenue, Long Island City, N.Y.

SUPPLEMENTAL LIST

Allied Artists Pictures Corp., 560 Broadway, New York, N.Y.—Norton V. Ritchey, vice president.
Bell & Howell Co., 7100 McCormick Road, Chicago, Ill.—E. L. Schimmel.
Cargill, Inc., 200 Grain Exchange, Minneapolis 15, Minn.—H. Terry Morrison, executive vice president.
The Dayton Rubber Co., 6 East 39th Street, New York, N.Y.—Mr. Rosenburg, manager of International Division.
Hamilton Watch Co., Lancaster, Pa.—Richard J. Blakinger, secretary and general counsel.
Hawaiian Pineapple Co., Honolulu, Hawaii—J. E. McConnell, vice president-treasurer.
Jones & Lamson Machine Co., Springfield, Vt.—H. A. Finch, manager of manufacturing.
Langner & Co., 3318 West Cary Street, Richmond, Va.—William R. Langner, director.
Lempco International, Inc., Post Office Box 131, Bedford, Ohio, vice president.
Magnus Chemical Co., Garwood, N.J.—J. D. Holmes, vice president.
McLean Industries, Inc., Mobile, Ala.—vice president and treasurer.
Pfizer International, Inc., 800 Second Avenue, New York, N.Y.—C. R. Smith, treasurer.
Square D Co., 425 County Avenue, Secaucus, N.J.—S. T. Colman, export manager.
Stauffer Chemical Co., 380 Madison Avenue, New York, N.Y.—Peter S. Bedrosia, manager, taxes.
The Yale & Towne Manufacturing Co., 405 Lexington Avenue, New York, N.Y.—William H. Mathers, vice president and secretary.

Mr. HAYNES. Quite naturally all the major business associations also favor H.R. 5. Representatives of the National Foreign Trade Council and the U.S. Council of the International Chamber of Commerce have already appeared today, and I understand that the National Association of Manufacturers is filing a statement.

Support for H.R. 5 is by no means limited to business. Organized labor endorses the principles embodied in this carefully shaped piece of legislation. I would refer you, Mr. Chairman, to a letter read to the House of Representatives by Congressman Boggs signed by Mr. Andrew Biemiller, director of the legislative department of AFL–CIO. That letter endorses the deferral of U.S. tax on foreign income when such income arises from and is reinvested in underdeveloped countries, which is, of course, what H.R. 5 would provide.

As it has emerged from the House of Representatives after elaborate study and a number of major modifications, the bill has the support of the Treasury Department and the administration. Introduced in the House by a member of the Democratic Party, it embodies the recommendation of our Republican President in his latest budget message, which was read to us today, favoring deferral of U.S. taxation on this income.

Mr. Chairman, such unanimity in support of a bill is solid evidence of the value of that bill to the entire Nation.

H.R. 5 would benefit every man, woman, and child in the United States. By encouraging U.S. exports, licensing direct private investment in and to developing countries through deferral of U.S. taxation of income earned and reinvested in such countries, H.R. 5 would help unshackle U.S. industry to meet the Soviet economic offensive.

I am sure, Mr. Chairman, that I could say little that would add to the knowledge of this committee concerning the gravity of that offensive. The long-term, low-interest credits offered to selective underdeveloped countries by Moscow and Peiping, the seductive Soviet barter agreements, the politically trained Soviet technicians flooding into these lands, the massive program of indoctrination being given in Red China and Russia to men and women coming from these lands for training, and in case of Red China coming especially from Latin America, the occasional flooding of underdeveloped countries by the Communists of imitations of Western goods at subsidized cut prices, to knock out Western firms and advance Communist political goals.

I am equally certain, Mr. Chairman, that I could add little to this committee's understanding of U.S. private direct investment as the key instrumentality in our campaign to meet this offensive. As necessary as is our program of aid in alleviating starvation abroad, building roads, dams, and other basic economic requirements, it is a program that the Soviets can match. The Soviets can also build and are building manufacturing plants in these countries, but in this realm we have a clear advantage. When the Soviets build a plant the host country must pay for it. When a U.S. corporation builds a plant, the capital is supplied and the risk is borne by the U.S. firm. The Soviet plant is built for the host government and the Soviet purpose in building it is to advance socialism and eventually communism. The U.S. plant embodies and advances the concepts of freedom.

These facts, Mr. Chairman, are well known to this committee. What is perhaps less known is the impetus H.R. 5 would give to direct U.S. investments in these developing countries.

Not to be ignored is the impact in both the free and Communist world merely of passage of the bill. It would stand as a clear message, both of the determination of the United States to advance economic growth and living standards abroad, and of our conviction that the economic interests of freemen everywhere are best served by capitalism.

H.R. 5 would spur private U.S. investment in developing countries in a more immediate fashion. No American company had sufficient funds with which to meet all its investment requirements and opportunities. It must, therefore, rate these investment demands according to their probable contribution to the company's overall growth and profitability.

In these terms, developing countries usually come at the end of the list since the markets they offer are poor and production costs high.

When, however, a U.S. company can take the earned income in one of these countries and reinvest it in others without payment of U.S. tax, that means the chances are good that it will do so. And this is precisely what H.R. 5 provides. It is true that U.S. companies can get the same benefits today through the use of foreign base companies, but this requires a great deal more sophistication and capital than the majority of U.S. companies possess. Existing foreign operations cannot, as the representative from Sears, Roebuck has pointed out today, be transferred to foreign base companies without prohibitive U.S. tax.

Mr. Chairman, 2 weeks ago, Business International published the fact that the little Himalayan nation of Nepal, sturdily resisting the encroachment of the Communist Chinese monolith on its border, is actually offering to guarantee profits to foreign private investors willing to contribute to Nepal's strength and development. The Nepalese Government has recognized, as does H.R. 5, that private investment requires an inducement to enter weak markets of low purchasing power.

Mr. Chairman, how can we fail to take the modest step in the same direction represented by H.R. 5, and thereby give support to nations eager to attract private enterprise and grow strong in the path of freedom?

U.S. private investment in these countries will not hurt U.S. exports. Generally speaking, underdeveloped countries are in no position to buy much from the United States, to begin with. Industrial goods that they do buy—machinery and equipment, in the main—cannot by and large be produced in these countries and will continue to be imported by them.

H.R. 5 would, in fact, increase U.S. exports of materials and components and of capital goods. Gradually it would help expand U.S. exports of all types of products, since industrializing countries always become better customers of the United States.

A dramatic example of the fact that U.S. firms do not give up exports in favor of foreign investments, but rather invest abroad instead of losing sales altogether, is the case of Willys-Overland and Studebaker-Packard in Argentina. Last year Studebaker-Packard exported one automobile and several hundred trucks to Argentina. In the same year, Willys-Overland manufactured more than 20,000 vehicles in Argentina.

Mr. Chairman, the only sacrifice to the Nation called for by H.R. 5 is the postponement of a few million dollars per year in Federal tax.

Even here, H.R. 5 will benefit every U.S. citizen, because in the end the U.S. Treasury will collect more revenue from corporations spurred to greater investment by the bill. And there is no possible way for the shareholders of these corporations to benefit, through dividends, from H.R. 5 except as the U.S. Treasury benefits.

I will mention in passing only one criticism of H.R. 5. Tacked on at the last minute was an amendment relating to the wages paid abroad by U.S. subsidiaries. By calling on such firms to abide by the wage laws where they operate, or to pay at least the average going wage, this amendment suggests that U.S. companies actually pay less, and need the whiplash of U.S. legislation to do better.

The record is plain that U.S. subsidiaries abroad almost always pay more than the going average rate, let alone the legal minimum rate. One big U.S. industrial concern, with a Japanese plant, Mr. Chairman, keeps check on average wages in Japan in its own and allied industries in that country, and tries to keep 6 percent ahead, and this, I submit, is a typical example.

Keeping this amendment in H.R. 5 would, Mr. Chairman, accomplish nothing except to give American companies, indeed the United States itself, a totally unwarranted reputation the world over of being unscrupulous and, indeed unlawful, exploiters of labor.

To summarize, the principles and objectives of this urgent piece of legislation are warmly endorsed by the President and his administration, including the U.S. Treasury, by the AFL-CIO, by an extraordinary array of U.S. corporations, and by the major business associations. It has earned this support because, while stimulating U.S. exports, it would unshackle U.S. industry to overcome the Communist trade offensive and promote the concept of freedom in vast areas of the world.

H.R. 5 would help to achieve these profoundly important goals at the cost merely of postponing collection of a modest amount of taxes on income earned in developing countries themselves. But at the same time it would prepare the ground for larger U.S. tax revenues later.

Mr. Chairman, it is my conviction that this bill is the very least that should be provided as an encouragement to the key instrument in our Nation's foreign economic policy—direct investment by U.S. companies in productive enterprises abroad.

Again, I compliment the chairman on these hearings and thank him for the opportunity of appearing before this committee.

Senator LONG. Thank you very much, Mr. Haynes.

(Mr. Haynes subsequently submitted the following prepared statement for the record:)

STATEMENT OF ELLIOTT HAYNES, EDITOR, BUSINESS INTERNATIONAL, NEW YORK, N.Y.

Mr. Chairman, members of the Senate Finance Committee, my name is Elliott Haynes. I am editor of the weekly publication, Business International, of New York. Business International reports and interprets to U.S. business executives the events and trends throughout the world they must know about and understand to conduct their international business properly and efficiently. To do this we have 70 correspondents in the principal commercial centers of the free world, area editors, and researchers in New York, a Washington editor, and offices in Chicago and San Francisco. We also publish research studies in the field of international trade and investment. Finally, we provide continuous consultation and research to 75 major U.S. corporations with extensive operations abroad. A list of these clients is appended to this statement. Of course, nothing I say today should be interpreted as representing the views of any individual subscriber or client.

I am here to testify on behalf of H.R. 5. I want to compliment the chairman on his action in granting time so promptly for hearings on this bill in the midst of this committee's work on other important pieces of legislation. The significance of H.R. 5 far transcends the modest deferral of U.S. taxation of foreign income it would provide, which helps to explain the remarkable support and backing it enjoys in every major sector of American life.

Given the pressure of work of this committee, these hearings will allow only a few U.S. corporations to appear and explain their support for H.R. 5. Therefore, Mr. Chairman, I would like to call attention to the truly extraordinary list of companies that supported this legislation contained in the record of the hearings before the House Committee on Ways and Means. This is one of the most impressive lists of firms I have ever seen in support of a proposed law .

Quite naturally, all the major business associations also favor H.R. 5. Representatives of the National Foreign Trade Council and the U.S. Council of the International Chamber of Commerce have already appeared today, and I understand that the National Association of Manufacturers is filing a statement.

Support for H.R. 5 is by no means limited to business. Organized labor endorses the principles embodied in this carefully shaped piece of legislation. I would refer you, Mr. Chairman, to the letter read to the House of Representatives by Congressman Hale Boggs signed by Mr. Andrew Biemiller, director of the legislative department of the AFL-CIO. That letter endorses deferral of U.S. tax on foregin income when such income arises from and is reinvested in underdeveloped countries—which is, of course, what H.R. 5 would provide.

As it has emerged from the House of Representatives, after elaborate study and a number of major modifications, the bill has the support of the Treasury Department and the administration. Introduced in the House by a member of the Democratic Party, it embodies the recommendation of our Republican President, in his latest budget message, that private, direct investment in developing countries by U.S. corporations be given tangible encouragement through deferral of U.S. taxation.

Mr. Chairman, such unanimity in support of a bill is solid evidence of the value of that bill to the entire Nation. H.R. 5 would benefit every man, woman, and child in the United States.

By encouraging U.S. exports, licensing and direct, private investment in and to developing countries, through deferral of U.S. taxation of income earned and reinvested in such countries, H.R. 5 would help unshackle U.S. industry to meet the Soviet economic offensive. I am sure, Mr. Chairman, that I could say little that would add to the knowledge of this committee concerning the gravity of this offensive, the long-term low-interest credits offered to selected underdeveloped countries by Moscow and Peiping, the Soviets' seductive barter agreements, the politically trained Soviet technicians flooding into these lands, the massive program of indoctrination being given in Red China and Russia to men and women coming from these lands for training (in the case of Red China, coming especially from Latin America), the occasional flooding of underdeveloped countries by the Communists of imitations of Western goods at subsidized, cut prices to knock out Western firms and advance Communist political goals.

I am equally certain, Mr. Chairman, that I could add little to this committee's understanding of U.S. private, direct investment as the key instrumentality in our campaign to meet this offensive. As necessary as is our program of aid in alleviating starvation abroad, building roads, dams, and other basic economic requirements, it is a program that the Soviets can match. The Soviets can also build, and are building, manufacturing plants in these countries, but in this realm we have a clear advantage. When the Soviets build a plant, the host country must pay for it. When a U.S. corporation builds a plant, the capital is supplied and the risk borne by the U.S. firm. The Soviet plant is built for the host government, and the Soviet purpose is to advance socialism—and eventually communism; the U.S. plant embodies and advances the concepts of freedom.

These facts, Mr. Chairman, are well-known to this committee. What is perhaps less known is the impetus H.R. 5 would give to direct U.S. investments in these developing countries. Not to be ignored is the impact in both the free and Communist worlds merely of passage of the bill. It would stand as a clear message both of the determination of the United States to advance economic growth and living standards abroad, and of our conviction that the economic interests of free men everywhere are best served by capitalism.

H.R. 5 would spur private U.S. investment in developing countries in a more immediate fashion. No American company has sufficient funds with which to meet all its investment requirements and opportunities. It must, therefore, rate these investment demands according to their probable contribution to the company's overall growth and profitability. In these terms, developing countries usually come at the end of the list, since the markets they offer are poor and production costs high. When, however, a U.S. company can take the income earned in one of these countries and reinvest it in another without payment of U.S. tax, the chances are good that it will do so. And this is precisely what H.R. 5 provides. It is true, Mr. Chairman, that U.S. companies can get the same benefits today through the use of foreign base companies, but this requires a great deal more sophistication and capital than the majority of U.S. corporations possess. And existing foreign operations cannot, as the representative from Sears has pointed out, be transferred to foreign base companies without prohibitive U.S. tax.

Two weeks ago Business International published the fact that the little Himalayan nation of Nepal, sturdily resisting the encroachments of the Communist Chinese monolith on its border, is actually offering to guarantee profits to foreign private investors willing to contribute to the country's strength and development. The Nepalese Government has recognized, as does H.R. 5, that private investment requires an inducement to enter weak markets. Mr. Chairman, how can we fail to take the modest step in the same direction represented by H.R. 5, and thereby give support to nations eager to attract private enterprise and grow strong in the path of freedom?

U.S. private investment in these countries will not hurt U.S. exports. Generally speaking, underdeveloped countries are in no position to buy much from the U.S. to begin with. Industrial goods that they do buy—machinery and equipment in the main—cannot, by and large, be produced in these countries and will continue to be imported by them. H.R. 5 would, in fact, increase U.S. exports—of materials and components, and of capital goods. Gradually it would help expand U.S. exports of all types of products, since industrializing countries always become better customers of the United States. A dramatic example of the fact that U.S. firms do not give up exports in favor of foreign investment, but rather invest instead of losing sales altogether, is the case of Willys Overland and Studebaker-Packard in Argentina. Last year Studebaker-Packard exported one automobile—I repeat, one automobile—and several hundred trucks to Argentina; in the same year, Willys Overland manufactured more than 20,000 vehicles in the country.

Mr. Chairman, the only sacrifice to the Nation called for by H.R. 5 is the postponement of a few million dollars a year in Federal tax. Even here, H.R. 5 will benefit every U.S. citizen because, in the end, the U.S. Treasury will collect more revenue from corporations spurred to greater investment by the bill. There is no possible way for the shareholders of these corporations to benefit, through dividends, from H.R. 5 except as the U.S. Treasury benefits.

I would mention in passing only one criticism of H.R. 5. Tacked on at the last minute was an amendment relating to the wages paid by U.S. subsidiaries abroad. By calling on such firms to abide by the wage laws where they operate, or to pay at least the average going wage, this amendment suggests that U.S. companies actually pay less, and need the whiplash of U.S. legislation to do better. The record is plain that U.S. subsidiaries abroad almost always pay more than the going, average wage rate. One big U.S. industrial concern with a Japanese plant, for example, keeps check on average wages in Japan in its own and allied industries and tries to keep 6 percent ahead. Keeping this amendment in H.R. 5 would, Mr. Chairman, accomplish nothing except to give American companies and the United States itself a totally unwarranted reputation the world over of being unscrupulous and indeed unlawful exploiters of labor.

To summarize, the principles and objectives of this urgent piece of legislation are warmly endorsed by the President and his administration, including the U.S. Treasury; by the AFL-CIO; by an extraordinary array of U.S. corporations; and by the major business associations. It has earned this support because, while stimulating U.S. exports, it would unshackle U.S. industry to overcome the Communist trade offensive and promote the concepts of freedom in vast areas of the world. H.R. 5 would help to achieve these profoundly important goals at the cost merely of postponing collection of a modest amount of taxes on income earned in developing countries themselves, but at the same time would prepare the ground for larger U.S. tax revenues later.

Mr. Chairman, it is my conviction that this bill is the very least that should be provided as an encouragement to the key instrument in our Nation's foreign economic policy—direct investment by U.S. companies in productive ventures abroad. Again, I compliment the chairman on these hearings and thank him for the opportunity of appearing before this committee.

CLIENTS OF BUSINESS INTERNATIONAL EXECUTIVE SERVICES

(As of January 1, 1960)

Abbott Laboratories International
Aluminum Company of America
American Cyanamid Co.
American Machine and Foundry Co.
American Motors Corp.
Ampex Corp.
Bank of America
Bendix Aviation Corp.
Borg-Warner International
Bristol-Myers International
California Packing Corp.
The Champion Paper & Fibre Co.
The Chase Manhattan Bank
Clark Equipment International
Clevite Corp.
The Coca Cola Export Corp.
Combustion Engineering, Inc.
Controls Company of America
Cutter Laboratories
John Deere, C. A.
Dow Chemical Co.
Dresser Industries, Inc.
E. I. du Pont de Nemours & Co.
Esso Export Corp.
Everest & Jennings, Inc.
Food Machinery & Chemical Corp.
Ford International
Foremost Dairies, Inc.
Friden, Inc.
W.P.Fuller & Co.
General Aniline & Film Corp.
General Foods Corp.
H. J. Heinz Co.
Hewlett-Packard Co.
International General Electric Co.
International B. F. Goodrich Co.
International Harvester Co.
International Milling Co.
International Minerals & Chemical Corp.
Johns-Manville International Corp.
Koppers Co., Inc.
Kraft Foods Co.
Eli Lilly International Corp.
Lockheed Aircraft International
McCulloch Corp.
Merck, Sharp & Dohme International
Minnesota Mining & Manufacturing Co.
Motorola, Inc.
North American Aviation, Inc.
Olin-Mathieson Chemical Corp.
Otis Elevator Co.
Owens-Illinois
Parke-Davis & Co.
The Proctor & Gamble Co.
Radio Corporation of America
Ray-O-Vac Co.
Remington Rand International
Schering Corp.
Sears, Roebuck & Co.
Singer Manufacturing Co.
A. O. Smith Corp.
Standard Oil Co. (New Jersey)
Sunbeam Corp.
The Timken Roller Bearing Co.
U.S. Industries, Inc.
United States Steel Export Co.
The Upjohn Co.
Varian Associates
Vick Chemical Co.
Warner-Lambert International
Westinghouse Air Brake International
Westinghouse Electric International
Willys-Overland Export Corp.
The Yale & Towne Manufacturing Co.

Senator LONG. The concluding witness for today's hearing is Mr. Sherwood Silliman, Vick Chemical Co.

STATEMENT OF SHERWOOD E. SILLIMAN, SECRETARY OF VICK CHEMICAL CO.

Mr. SILLIMAN. Mr. Chairman, thank you for the opportunity to appear. I have a short statement.

Senator LONG. Yes. Proceed, sir.

Mr. SILLIMAN. My name is Sherwood E. Silliman, secretary of Vick Chemical Co. The Vick Chemical Co. is a medium-sized corporation engaged principally in the drug and chemical business. It has its executive offices at 122 East 42d St., New York, N.Y., with plants in North Carolina, Pennsylvania, New Jersey, New York, Connecticut, Ohio and Missouri. It does business in 117 countries of the world.

We have been interested in supporting H.R. 5 as an aid to doing business abroad, which is indeed a complex operation. Wherever possible, we would prefer to manufacture in the United States and export for the reason experience shows that because of efficient American labor and processes, we can manufacture cheaper in the United States than we can abroad.

However, because of tariffs, national attitudes, exchange control, and other complexities, we find more and more we have either to manufacture or package our products abroad.

(Presiding now is Senator Byrd, chairman of the committee.)

The CHAIRMAN. I am sorry I was late and was unable to be here this morning.

Mr. SILLIMAN. I was pointing out why the Vick Chemical Co. would prefer to manufacture in the United States, because we have the benefit of very efficient labor here much more efficient than in foreign countries and our modern processes, but we find that because of tariffs, national attitudes, exchange control, and other complexities, that more and more we have to either manufacture or package our products abroad.

Once we decide to go into a foreign country, there arises the problem of how do we operate there?

Do we do it through a branch of a U.S. corporation, or form a subsidiary under the laws of the foreign country?

Under the present law, a branch of a U.S. corporation is not feasible because its earnings are subject to U.S. tax as the profits are earned. In many countries the U.S. tax rate is higher than the foreign rate.

H.R. 5 would enable us to use a U.S. corporation in less developed countries, the same way as we use foreign subsidiaries.

At this time, Vick is considering doing business on its own in Indonesia and Pakistan. As the U.S. law now exists, we will probably have to create two separate subsdiaries under the laws of each country. With H.R. 5 enacted, we would simply qualify a U.S. foreign business corporation.

We are optimistic. We do not believe less developed countries will always be less developed. Under H.R. 5 we could leave our accumulated profits to help in the development of the country. This is the American way of busness and government aiding to develop a country. We believe the bill will help to meet the communistic threat in these countries.

I call your attention to the report and recommendations prepared by Ralph I. Straus, as special consultant to the Under Secretary of State for Economic Affairs, dated April 1959, appearing in the report of hearings before the Committee on Ways and Means on H.R. 5, page 247.

Mr. Straus summarizes what H.R. 5 will do for companies like Vick by saying:

A foreign business corporation would, we believe, stimulate foreign investment by U.S. firms by permitting eligible companies to defer their U.S. tax on income accumulated abroad, provided such income is reinvested abroad. In addition the proposed FBC would enable companies operating abroad to integrate the management of their foreign activities, to decide without regard to tax consequences whether to operate abroad through a U.S. branch or through a foreign subsidiary, and to transfer their foreign earnings from one country to another without tax liability.

We have no hesitation in saying this bill will not serve to increase imports into the United States. The House has written a protective clause to prevent this. However, even without this clause, and I know that the Treasury recommends that this particular clause be deleted in their statement filed with this committee, because it would be hard to administer, I think with that clause not eliminated it is not going to be used by American corporations to reimport into the United States.

We are convinced that this remedial feature of the bill will only be used by American companies to further their business in the less-developed countries. Wherever we do business throughout the world, we employ labor above the going rate and seek to develop better standards of living for the customers who buy our medicines.

We urge the enactment of H.R. 5 at this session. A number of witnesses this morning, including the statement of the Treasury Department, have urged remedial amendments. I know the committee will give consideration to these and seek to improve the bill. However, the important thing is to get the legislation passed. It seems to me that no further extensive study is needed. All the facts are in the record of the Ways and Means Committee and in the very splendid Straus report.

I thank you very much for your attention.

The CHAIRMAN. Thank you very much.

Mr. SILLIMAN. If you have any questions, as the concluding witness I would be very happy to answer them.

Senator LONG. I would like to ask to be put into the record a wire from the executive vice president of the New Orleans Chamber of Commerce and some other communications that our staff has here.

The CHAIRMAN. Does the Treasury approve the bill?

Mr. SILLIMAN. The Treasury, yes, they have sent a statement that arrived this morning in which they approved it and suggest two amendments to delete two provisions.

The Treasury approved, once it was limited to underdeveloped countries. As the bill originally came out of the House Ways and Means Committee you could take your cumulated earnings, in Germany, for example, and reinvest those earnings in India. But the Treasury suggested, and very strongly recommended that it be limited to less developed countries and that is the way the bill now appears and as it passed the House.

The CHAIRMAN. Thank you, Mr. Silliman.

(The document referred to follows:)

NEW ORLEANS, LA., *June 13, 1960.*

MRS. ELIZABETH B. SPRINGER,
Chief Clerk, Senate Finance Committee,
New Senate Office Building, Washington, D.C.:

Please include in the records of today's scheduled Finance Committee hearing that the chamber of commerce of the New Orleans area strongly urges passage of H.R. 5 because it is a much needed stimulant to U.S. trade aboard.

W. F. RIGGS, Jr.,
Executive Vice President, Chamber of Commerce of the New Orleans Area.

The CHAIRMAN. This being the last witness the committee will adjourn.

(By direction of the chairman, the following is made a part of the record:)

NEW ORLEANS, LA., *June 10, 1960.*

MRS. ELIZABETH B. SPRINGER,
Chief Clerk, Senate Finance Committee,
New Senate Office Building, Washington, D.C.:

International Trade Mart of New Orleans wishes to go on record as endorsing H.R. 5. Our 14 years of experience in the field of promoting international trade have convinced us that incentives to foreign investments for U.S. investors are essential. Such capital investments by our people overseas immeasurably strengthens the free world in its economic struggle with our opponents. We strongly urge the committee to favorably report H.R. 5.

WILLIAM G. ZETZMANN,
President, International Trade Mart.

[Western Union telegram—Night letter, June 10, 1960]

MRS. ELIZABETH B. SPRINGER,
Chief Clerk, Senate Finance Committee, 227 New Senate Office Building, Washington, D.C.:

I have just learned that your committee will consider H.R. 5, the Boggs bill, on Monday, June 13. Much as I would like to present my views in person on the importance of this bill to American industry I regret that it is impossible for me to be present on this date. I am therefore taking the liberty of sending you copies of my written comments made in support of the bill to the Honorable Wilbur Mills, chairman of the House Committee on Ways and Means, dated July 15, 1959. Although changes have been made in the bill since then I still support it believing that though by no means as satisfactory now as in the earlier version it is still a step in the right direction which should be taken. I have just returned from Europe and am more than ever convinced that it is vital to the safety and economy of the United States that our Government support by all possible means the efforts of American industry to compete with foreign industry and to reverse the trend whereby American industry is rapidly losing out to foreign competition.

Respectfully yours,

WILLIAM M. ADAMS,
President, Sprague International, Ltd.

SPRAGUE INTERNATIONAL, LTD.,
North Adams, Mass., July 15, 1959.

HON. WILBUR D. MILLS,
Chairman, the Committee on Ways and Means, the House of Representatives, Washington, D.C.

DEAR MR. MILLS: I regret my inability to attend your public hearings on Representative Boggs' bill H.R. 5 but hope that the following comments may be included and made part of the hearings on this bill.

My parent company, the Sprague Electric Co., is one of the leading manufacturers of capacitors and other basic electronic components. We are large suppliers to the radio and TV industry, to the Government, and to the electronic industry.

In the pursuit of oversea business, we have been forced to develop manufacturing and sales facilities abroad as our direct export business became more and more squeezed by foreign regulations and foreign competition. Our organization for foreign sales includes a Western Hemisphere corporation, a world trade company based in Europe, and two oversea factories.

I have personally directed these affairs for over 10 years and claim, therefore, to have some familiarity with many of the problems which beset the American businessman trying to do business abroad.

I wholly support H.R. 5, the so-called Boggs bill, and urge prompt enactment in its entirety for the following reasons:

1. The present tax situation favors large corporations to the detriment of small business. This is so because, under present conditions, firms with large financial and personnel resources can avail themselves of so-called tax sanctuary deals, whereas smaller companies cannot.

2. The more American enterprises there are profitably engaged in foreign business, the more successful will be our struggle against the Communist industrial offensive. This offensive, if successful, will be just as devastating to the United States in its final result as war itself.

3. By improving the business climate for both small and big business, more U.S. firms will be willing to venture abroad.

4. Profits, under this bill, can be made with less capital investment abroad and quicker than at home. This will result in less capital diverted abroad, more profits made from it, and, consequently, more tax receipts for the Treasury. If we go on as at present, those companies that can will invest in profit sanctuary subsidiaries; and profits will be held out of the United States for long periods. As fewer companies will be engaged in foreign business, less tax money will be generated.

The Treasury estimates of its tax losses are incorrect. Actually, they may very well gain, especially when hidden profits are unearthed as provided for under H.R. 5.

5. The Treasury's idea of limiting the bill's provisions to underdeveloped countries is unrealistic. A country may be developed in one area and underdeveloped in another. There is no yardstick of any value whereby the degree of development can be pinpointed. India may be undeveloped in some respects and very much developed in others. Furthermore, if the principle is accepted that it is a good thing for the United States to have a strong and prosperous foreign trade, then why limit it to the least profitable areas?

6. Foreign trade, including oversea factories, does not compete with domestic business or reduce employment. On the contrary, the more flourishing a company's foreign business, the more domestic business will be generated. Capital is released for local development, items that could not be exported find new markets through the increased industrialization of foreign markets. People abroad get more prosperous and buy more. Take the European Common Market—As this area becomes more industrialized and more prosperous, they won't begin to be able to satisfy their internal needs from their own resources but will have to buy outside. The greater part America has in this industrial surge, the greater proportion of U.S.-made goods will come in to fill the void.

7. I believe the Treasury is wrong in eliminating any company with over 50 percent of its business direct export. The figure is too low to be realistic and should be raised to 75 percent. This would cut out the basically domestic exporter who never has and never will develop a foreign business and, at the same time, would permit a company who is trying to develop an international business to follow the usual way of developing exports first.

8. On the controversial question of what is foreign income, the Treasury takes the position that, if I go to Brazil, for example, and sell some goods to a manufacturer and arrange that the goods shall remain my property until they enter Brazil, title has passed outside the United States, and this is foreign income. If, on the other hand, my manufacturing customers comes to New York and sends me an order for similar merchandise and I deliver same to him and he carries it back to Brazil in his stateroom, this is not foreign trade because he got title to the goods in the United States.

If both these transactions are not foreign trade, then what are they? Something must be done once and for all to decide this matter for the Treasury rather then permitting it by interpretation to make the laws to suit itself and hereby circumvent the intent of Congress.

I recommend that the destination of a transaction determine its nature. If I prepare documents and ship goods to a foreign country, that should be a foreign sale, irrespective of who has title and where.

9. H.R. 5 proposes that Western Hemisphere corporations be no longer limited to trading in the Western Hemisphere but be allowed to trade anywhere in the world. The Senate Finance Committee, in commenting on section 109 of the 1942 Revenue Act, stated:

"American corporations trading in foreign countries within the Western Hemisphere are placed at a considerable disadvantage with foreign corporations under the tax rates provided by the bill. To alleviate this competitive inequality, the committee bill relieves such corporations from the surtax liability."

Presumably, Congress directed its remedial measures to the Western Hemisphere because foreign competition was most severe there at that time. Whatever the conditions were then, there is no question but that now, competition from foreign sources is equally serious in all markets. Therefore, there is no logical reason to restrict a Western Hemisphere corporation's activities to the Western Hemisphere only.

On the tax advantage, admittedly there is one; but it is not at great as at first appears.

The Western Hemisphere corporation pays 38 percent annually (there is no tax deferral privilege). Next, when a dividend is paid to the parent, it pays a 52 percent tax on 15 percent of the dividend. In practice, this generally works out to an approximate tax saving of 7 percent when the whole transaction is complete, or roughly 45 percent tax paid against the present 52 percent domestic tax.

H.R. 5, though by no means perfect, goes far to remove many of the inequities which so seriously impair the American businessman in his efforts to gain a reasonable share of foreign markets.

The enactment of this bill will provide a sorely needed stimulus to a situation which is already critical and rapidly getting worse.

Very truly yours,

WILLIAM M. ADAMS, *President.*

STATEMENT IN SUPPORT OF H.R. 5 ON BEHALF OF THE NATIONAL ASSOCIATION OF MANUFACTURES

The competition confronted by American business in world markets is intense and increasing. This competition comes both from the revived and dynamic economies of the free world, and from the Soviet Union.

In meeting this competition, American business is handicapped by tax provisions relating to income earned abroad which are less realistic and less flexible than those of most of its competitors. This is especially true in areas of tax deferral of unrepatriated foreign source income, where the mobility of capital movement from one country to another is inhibited. Under present circumstances, deferral and mobility can be achieved for new foreign ventures by the establishment of foreign base corporations in one of the nations of the world whose corporate and tax laws make this feasible. This road is not open to many old and established foreign operations.

H.R. 5 has the merit of introducing the principle of deferral of U.S. tax on foreign earnings of old and new ventures, regardless of the form of local enterprise by which it is earned, until such earnings are brought home. This would be accomplished by establishing the U.S. counterpart of the foreign base company. We heartily support the introduction of this principle in law.

If freely available for all foreign business operations, the principle would add greatly to the effectiveness of American business in world markets. It is unfortunate in our view that the availability of tax deferral through U.S. base corporations under H.R. 5 is limited to operations in socalled underdeveloped countries.

This limitation, moreover, is compounded by provisions of the bill which would prevent the tax-free transfer of earnings from developed countries to operations in underdeveloped countries. The opportunity to make such transfers would obviously serve U.S. foreign policy in that the contribution of American business to economic expansion in the underdeveloped countries would be encouraged.

Nevertheless, we believe that the principle of deferral of tax on foreign source income by the base company form is so important that it should be enacted into law even if the area limitations referred to are not eliminated.

We do however take the strongest exception to subsection (f) of section 2 of H.R. 5 entitled "Disqualification for Substandard Labor Conditions."

This provision is offensive in its implication that American businesses operating abroad might engage in labor practices so undesirable as to necessitate policing by the U.S. Government. Wherever American business goes abroad, its tendency is to improve working conditions, but never to worsen them. The provision is impolitic because, in implying a situation which does not exist, it gratuitously puts ammunition in the hands of our country's enemies and critics of our free enterprise system.

Furthermore, the Treasury Department, in a letter signed by Mr. Jay W. Glasmann, Assistant to the Secretary of the Treasury, and addressed to the Honorable Harry F. Byrd, chairman of the Committee on Finance, stated that the provision: "* * * appears undesirable from the standpoint of sound tax administration." and "* * * the Treasury believes that the adoption of a provision which would disqualify a corporation for any year in which it operates in a less developed country under substandard labor conditions is out of place in a tax measure and may lead to litigation of difficult, complex, labor standard issues before tribunals which are not equipped to handle such problems. It is clear, for example, that the Treasury Department itself cannot administer such a limitation. For this reason, the amendment places primary responsibility in this area with the Department of Labor."

We endorse this view of the Treasury Department, but add our view that any administrative proceeding to implement the provision inevitably would involve charges which, though not proved, would simply provide more grist for the propaganda mill of the detractors around the world of the American free enterprise system.

With the elimination of subsection (f) of section 2, we believe that H.R. 5 would be a step forward toward meeting foreign competition more effectively, and on this basis urge its favorable consideration by this committee and the United States Senate.

Respectfully submitted.

DONALD H. GLEASON,
Chairman, Subcommittee on Taxation of Foreign Source Income, Taxation Committee, National Association of Manufacturers.

SAN FRANCISCO, CALIF., *June 13, 1960.*

SENATE COMMITTEE ON FINANCE,
Senate Office Building, Washington, D.C.:

We observe from the Congressional Record that you are holding hearings beginning today on H.R. 5, the proposed Foreign Investment Tax Act introduced by Representative Boggs. It appears to us that this legislation is desirable and should provide a stimulus for foreign investment on a businesslike basis and without any unfavorable impact on our domestic economy. We believe this to be true as to industry as well as banking.

BANK OF AMERICA,
NATIONAL TRUST AND SAVINGS ASSOCIATION,
ROLAND PIEROTTI.

AUTOMOBILE MANUFACTURERS ASSOCIATION, INC.,
Washington, D.C., June 13, 1960.

HON. HARRY F. BYRD,
Chairman, Senate Finance Committee,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This statement is being submitted in connection with the hearings being conducted by your committee on H.R. 5, the Foreign Investment Incentive Act of 1960.

The Automobile Manufacturers Association recommends that the Internal Revenue Code of 1954 be amended to encourage American private investment abroad and thereby promote American industry and reduce Government expenditures for foreign economic assistance.

It is recommended that this result be effected by the enactment of legislation conforming to the basic principles underlying H.R. 5.

Although there are several limitations contained in H.R. 5 which will restrict its effectiveness, we urge that favorable action be taken.

Sincerely yours,

HARLAN V. HADLEY,
Secretary, Committee on Taxation.

MACHINERY & ALLIED PRODUCTS INSTITUTE,
Washington, D.C., June 14, 1960.

Hon. HARRY F. BYRD,
Chairman, Senate Finance Committee,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We appreciate this opportunity to present to the Committee on Finance our views on H.R. 5, the proposed foreign investment incentive tax bill introduced by Representative Boggs and passed by the House of Representatives on May 18.

The proposed legislation is of deep interest to the capital goods and allied product industries which are represented by the Machinery & Allied Products Institute and its affiliate, the Council for Technological Advancement. Many of the companies in these industries have long been and are now increasingly involved in foreign business operations. Others not active in the foreign field in the past are now planning an entry into the field.

It is appropriate, first, that we examine the basic objectives which seem to motivate the Congress in initiating legislation in this field.

1. Extensive testimony taken by the Committee on Ways and Means over a period of time has developed the fact that the state of the law in connection with the treatment of foreign source income is disorganized, confusing, and wholly unintegrated. Under the present law corporations are required to do indirectly through the utilization of a foreign base corporation what they should be able to do directly, assuming as we do the legitimacy of the foreign base corporation approach. In other words, through a new provision in the U.S. tax law an American corporation wishing to set up a separate corporation for the purpose of carrying on its foreign operations should be able to do so and have that new entity fly the American flag in both a status and tax sense. Presumably with this in mind, the foreign business corporation (FBC) tax deferral concept has been made the cornerstone of the proposed legislation. We comment at length later concerning the stultifying effect on this concept of the amendments subsequently added to the bill. Even as originally drafted, however, the tax deferral concept is a streamlining effort which does not reflect a radical innovation and should have limited revenue impact in view of the present use of foreign base corporations.

2. In addition to the commendable purpose of attempting to bring some order to the presently confused state of the law with respect to the taxation of foreign source income, the Congress by adopting the FBC tax deferral concept would espouse the much more fundamental objective of promoting "the economic welfare of the free world by encouraging the utilization of private American investment abroad for the purpose of diminishing the increasing drain upon the American taxpayer in providing for foreign economic assistance out of tax revenues." This is really a twofold objective. The bill is grounded in the clear policy of encouraging private investment abroad. At the same time it is thought that the utilization of private American investment might be a parallel or, to some extent, a substitute effort for Government-sponsored foreign aid programs.

These objectives would seem to make considerable sense. Unfortunately, the bill as passed by the House includes certain restrictive amendments, including those sponsored by the Ways and Means Committee on the floor of the House, which in our judgment will make it impossible for the objectives just stated to be realized to any substantial extent. These restrictions would provide as follows:

1. In order to qualify as a foreign business corporation and be eligible for tax deferral on its reinvested foreign source income a domestic corporation would be required to derive the bulk of its income from underdeveloped countries.

2. The House bill, although not expressly excluding deferral on export income, would substantially prevent the deferral of taxes on income derived from export operations based in the United States. This result stems from the provision that

FBC income reinvested abroad, to the extent that it is attributable to physical assets located and personal services performed in the United States, is deemed to constitute a taxable distribution of earnings.

3. There would be a limitation on deferral to no more than 25 percent of an FBC's patent and copyright royalty income.

Effect of restrictive House amendments on basic objectives of FBC tax deferral proposal

Much material has been presented to the Ways and Means Committee, both in hearings on private foreign investment by its Foreign Trade Policy Subcommittee in December 1958 and in hearings by the full committee on H.R. 5 in July 1959, tending to show that the primary source of funds for increasing private foreign investment lies in the earnings of existing oversea business and investment. Postponement of American taxes on such earnings, so long as they are reinvested abroad, increases the available source of such investment funds by the amount of the postponed tax and the pool of funds multiplies. In addition, there is the actual (but difficult to measure) effect of the psychological spur to increase oversea business activity which would result from the deferral provision.

It seems clear to us that the importance of such deferral possibilities as an incentive to increase private American foreign investment has been disregarded by the Treasury in its emphasis on cutting down possible immediate revenue losses. This emphasis on short-run tax revenue considerations obviously has been accorded prime importance by the administration in its position on the FBC deferral proposal, the recommendations of the Straus ad Boeschenstein reports, as well as the preponderance of the expert testimony adduced by the House Ways and Means Committee to the contrary notwithstanding. We feel that the Treasury attitude has unduly influenced the action by both the House Ways and Means Committee and the full House on the bill. The House-passed version of H.R. 5 would permit a company to qualify as an FBC only if it were operating in an underdeveloped country. Consequently, the only "tax deferred" funds that would be available for new investment in underdeveloped countries would be from the earnings from existing investments in such underdeveloped areas. But it is the current lack of profitability of investment in such underdeveloped areas that has helped to give rise to the desirability of tax deferral on all foreign investment as an incentive to new or increased investment in those foreign countries most needing such investment. An incentive to reinvest funds, when such funds do not exist or are inadequate for such purposes, is obviously meaningless. However, this is precisely the approach of the current version of H.R. 5.

Moreover, the bill now contains what appears to be an administratively unworkable attempt to restrict deferral on export income by deeming FBC income reinvested abroad, to the extent that it is attributable to physical assets located and personal services performed in the United States, to constitute a taxable distribution of earnings. This provision ignores the history of the foreign operations of most American companies—the growth from purely export activities to the building of plant and facilities abroad. Frequently export income forms the source of the "brick and mortar" investment which follows. Here again, by a narrow-viewed attempt to reduce anticipated revenue losses, the incentive for tapping another large potential source for foreign investment funds has been largely blunted. The same may be said for the limitation on deferral to no more than 25 percent of an FBC's patent and copyright royalty income.

It may be reasonably argued that any new concept or new approach must contain some reasonable administrative restrictions in order to prevent abuses and to hold the new tax provisions on target. We are not oblivious to the revenue loss considerations advanced by the Treasury. On the other hand, if the Congress sets out to accomplish certain legitimate legislative objectives, those which we have stated above, and then allows those objectives to be riddled, indeed negated, by administrative impediments to, and extreme restrictions on, a device tailored to attain those objectives, it might just as well not legislate at all. This, in our judgment, is very nearly the posture of the Congress at the present time.

It is unnecessary for us to develop more fully our argument with respect to the restrictions just referred to, because we have made our views very clear in previous statements on the subject of the Boggs bill. The most complete expression of our views on this subject was our statement presented to the Ways and Means Committee on June 7, 1959, a copy of which is attached. We quote below from our previous comments on the limitation as to underdeveloped areas and then deal briefly with the export income restriction.

Limitation to underdeveloped areas

"We are wholly sympathetic with the administration's desire to increase U.S. private investment in less developed areas. Given this objective, will the Treasury's proposals for amendment serve this end? We think their adoption would be disastrous.

"The FBC tax deferral device was never intended as incentive for U.S. business to operate in any particular area or areas of the world; rather, it is the recognition of a customary method by which companies conduct their foreign operations and through which they may accumulate earnings on a tax deferral basis for reinvestment abroad.

"The 'unitary' concept is indispensable to the proposal. Companies of all sizes are finding it increasingly desirable—indeed necessary—to conduct all foreign operations within a single organizational structure. Whether this be a foreign base corporation situated in Switzerland or a subsidiary located in this country will depend in large part upon our tax laws. The central point is that all operations—export, foreign licensing, and foreign manufacturing—must be considered as parts of a worldwide marketing operation. To destroy the unitary concept, to restrict a foreign business corporation to doing business in the less developed countries, is to negate the proposal now before the committee and to make it virtually useless except for those relatively few companies dealing in commodities and raw material existing primarily in such countries.

"To distinguish between 'developed' and 'less developed' countries would mean creation of a foreign business corporation empowered to do business in Bolivia perhaps, but not in Argentina; in Colombia, but not in Venezuela; in India, but not in South Africa. Are Spain, Turkey, and Greece 'developed' or 'less developed'? Italy is an industrialized nation but what about southern Italy? It seems to us that adoption of the 'less developed' area limitation would create an administrative hornet's nest.

"From the standpoint of practical tax saving one must consider several factors. First of all, most of the industrialized countries now have tax rates comparable to those of the United States so that tax deferral and reinvestment of pretax earnings in such areas would be minimal. As for the lesser developed areas, the fact of low taxes is of little consequence inasmuch as profits earned there—at least in the early years of an investment—can be expected to be so small as to provide little, if anything, for further investment there or in other lesser developed areas. The fact is that funds for private investment abroad—in any area—must come inevitably from income in the form of license fees and export earnings.

"Finally, and irrespective of tax reform, private investment will flow only into those areas abroad which provide a favorable investment climate and a natural market for the product or business operation involved. The FBC tax deferral device can do no more than provide an incentive to facilitate and to quicken what must ultimately be a normal commercial pattern of development.

"In view of these commercial facts of life, it is altogether unrealistic to suppose that a U.S. corporation now operating a very practical—if artificially located—foreign base corporation would abandon it in favor of a statutory foreign business corporation subject to the less developed area restriction.

"We agree completely with the Straus report when it says:

" 'We believe that there should be no geographical limitation on the foreign activities and sources of income of an FBC because the diplomatic problems and domestic pressures involved in choosing particular countries or areas would make a general system of legislative or administrative selection very difficult. Moreover, since the FBC involves tax deferral rather than tax reduction, it is appropriate for investment both in developed and underdeveloped countries.' "

Export income versus investment income

As previously indicated, we feel that the realities of conducting foreign operations make it unwise to place a limitation on export income to which the tax deferral privilege should be granted. We have previously pointed out that income from foreign business operations takes a great variety of forms. Attempting to distinguish one from another only introduces a new pattern of inequity and imposes new deterrents to the objectives being sought. For example, there is no clear and definable line of demarcation, at least in the capital goods industries, between foreign income attributable directly to foreign investment and income accruing from the sale of engineering know-how on the sale of items exported from the United States or from a third country. The fact is that many manufacturing companies are undergoing a virtually continuous transition from purely export sales to foreign manufacturing operations. We feel that the attempt to limit deferral with respect to export income by requiring in effect that nearly all of the FBC's facilities be located overseas, is both unwise and administratively unworkable. It should be abandoned.

We urge the committee to go further. The distinction between export income and other types of foreign source income should be abolished through adoption of the destination test with respect to determining the source of income. Our reasoning on this point is developed in considerable detail in our July 1959 statement. Note particularly pages 10-14.

In brief, we believe that an export restriction makes no sense, that it is not consistent with the objectives of the bill, and that the Government's interest is amply protected by the requirement that in order to qualify for tax deferral the FBC's income must be reinvested abroad.

Conclusion

In summary, it is our feeling that the objectives of the proposed legislation are sound and well conceived. Gradually, as the legislation has evolved in the Congress, meat-axe restrictions have been imposed, partly as a result of confusion with respect to the realities of commercial operations in the international field, partly as a result of an abortive effort to concentrate the benefit in the underdeveloped areas, and primarily as a result of legitimate legislative objectives being neutralized or destroyed by Treasury concern over the revenue impact.

In its watered-down form the bill might accomplish something, but the extent to which its broad objectives would be achieved would be quite limited. Indeed, if passage of this bill in its present form would result in Congress treating the legislative area of taxation of foreign source income as closed to genuine reform, it might be better to defer action in the field. The real answer, however, is to pass the Boggs bill now without the emasculating amendments discussed in this letter and reviewed in more detail in our earlier statement to the Ways and Means Committee.

If we can be of service in any way please call on us.

Respectfully,

CHARLES W. STEWART,
President.

STATEMENT OF THE MACHINERY AND ALLIED PRODUCTS INSTITUTE AND COUNCIL FOR TECHNOLOGICAL ADVANCEMENT RE THE FOREIGN INVESTMENT INCENTIVE TAX BILL

Presented by Charles W. Stewart, President

Mr. Chairman, we appreciate this opportunity to present the views of the Machinery and Allied Products Institute on the proposed Foreign Investment Incentive Tax Act (H.R. 5) as introduced by Congressman Boggs.

As you know, the Machinery and Allied Products Institute and its affiliate, the Council for Technological Advancement, represents the capital goods and allied product manufacturing industries of the United States. Many of the companies in these industries have long been—and are now, increasingly—involved in foreign business operations. Moreover, because of the wealth producing potential of their products and its effect on the standard of living, the capital goods industries occupy a special position with respect to political and economic objectives sought to be realized by the legislation here proposed.

At the outset we should like to commend this committee and other committees of the Congress which are currently giving important attention to the area of international trade policy in the broad sense. The subject is both crucial and complex. Unfortunately, it is difficult, perhaps even dangerous, to consider one aspect of it without giving attention to other ramifications of international trade policy. Such overall integrated study and action is difficult to obtain because of the fragmented approach to the problem which follows from organization of the executive agencies of the Government and the natural tendency in Congress to deal with single parts of it at a time—tax, credit facilities, international price and productivity comparisons, etc.

Overall examination of this strategically important field of international trade and the position of U.S. industry in world markets not only from the standpoint of political and diplomatic considerations but also, as we shall stress here, from the standpoint of commercial realities is highly desirable and would be in the public interest. The hearings by this committee's Subcommittee on Foreign Trade Policy and the Boeschenstein and Straus reports are important steps in this direction. Needless to say, implementation, as well as study, should be on an overall basis so far as possible.

Turning now particularly to the tax questions before this committee, the very extensive experience of capital goods manufacturers in foreign trade has given rise to a deep concern on the part of the institute with the lack of consistency and logic in the provisions of the Revenue Code relating to the taxation of business income from foreign sources. This lack of consistency is nowhere better illustrated than by the differing tax treatment given various kinds of foreign income according to the form in which they are received by the American taxpayer. We are therefore especially grateful for the opportunity of testifying on legislation which gives promise not only of accomplishing certain important national objectives but promises at the same time to take a long step toward the introduction of order and logic into foreign income taxation.

We thing it obvious that the foreign investment incentive tax bill cannot be considered without relating it to the framework of the political, economic, and fiscal factors necessarily involved in the proposal of such legislation. Accordingly, we propose to advert briefly to certain of the broader questions here involved before taking up any direct review of the bill itself.

GENERAL BACKGROUND

The stated purpose of the bill is "to encourage private investment abroad and thereby promote American industry and reduce Government expenditures for foreign economic assistance." Given this general objective let up consider for a moment what its enactment would mean in terms of national foreign policy, the American position in world trade, and its effect on the public revenue.

Foreign policy implications.—There is growing evidence that the Soviet Union has launched a massive and continually expanding economic offensive in the cold war, having as its primary purpose the political domination through economic dependence and subjugation of so-called neutral and uncommitted nations. The United States has for some years sought to contain this threat by massive grants-in-aid to so-called lesser developed countries with a view to assisting such nations in the realization of their aspirations for economic improvement. Both the administration and the Congress have recognized the desirability for political and economic reasons of transferring some share of the responsibility for achievement of these ends to private industry. It is, as we have already seen, an express purpose of the foreign investment incentive tax bill.

It becomes proper to inquire them: First, if this is a desirable objective, and, second, if the bill now under consideration will, in fact, tend toward the realization of that goal. We think it a wholly desirable objective, and we believe that—in the long run—enactment of the bill's main provision will be of material assistance in reducing the foreign aid burden.

Economic considerations.—Foremost among the economic problems which bear on the committee's consideration of this bill is the present position of U.S. manufacturers and exporters in world markets, a position which is steadily worsening. Already other governments by one means or another are directly or indirectly encouraging foreign trade activity by their own citizens. For example, the United Kingdom recently adopted the Overseas Trade Corporation Act—not greatly dissimilar from H.R. 5—and Canada has for some years employed a similar statutory incentive to foreign trade activity. In addition, we understand that a number of foreign governments have sought to encourage export sales and foreign investment by government guarantees of foreign investment, by export credit insurance, by underwriting lenient and long-term credits on export sales, by direct subsidy in the form of certain tax reductions, etc.

Again it becomes proper to inquire whether the bill's stated purpose of encouraging private investment abroad and thus promoting American industry is a proper objective and if the proposed legislation as now drafted will in fact work toward that end. This question we also answer in the affirmative but with the strong recommandation that proceeds of all export sales be included within that foreign source income to which the tax deferral incentive be extended for reasons which we shall develop in detail later.

The fiscal problem.—Certainly, it would be irresponsible for the Congress to enact legislation which would in the long run seriously impair the public revenue, particularly at a time of rising and unbalanced Federal budgets. Inasmuch as the Secretary of the Treasury in his letter to the committee commenting on H.R. 5 has dealt at length with the fiscal problem, we shall not repeat it here except to acknowledge its seriousness and to suggest preliminarily that the Treasury Department has in our view overstressed temporary revenue losses without giving due weight to two important countervailing factors—the distinct possibility of increased revenues in the future from enlarging foreign business activity and the alternative possibility of falling revenues as a result of lessened business activity abroad in the absence of incentives intended, at the least, to place American business on a par with foreign competitors.

Let us examine the fiscal question in a more specific way. The Secretary of the Treasury estimates the revenue loss from the deferral approach embodied in the proposed legislation to be annually in the range of $300 to $500 million. Relatively speaking, as compared with the $3 to $4 billion contemplated for appropriation under mutual security and as compared with many domestic programs with varying objectives, the fiscal impact is not major in character. Moreover, the Treasury's estimates are cast in such language as to create a misconception that what is in fact a deferral would become annually a loss. Finally, referring to our discussion of basic policy, what needs to be done here is to evaluate the importance of the objectives of the proposed legislation, determine how vital this bill is to our national and international position—economic, political, and commercial—and then in that light review the fiscal impact. We are constrained to observe that the price that would be paid for this program would be well worth the investment.

Against this foreshortened backdrop of political, economic, and fiscal considerations we should like further summarily to review the main provisions of the bill, the Treasury position as set out in Secretary Anderson's letter of May 6, 1959, to the chairman of this committee, and the institute's approach to the problem.

The foreign investment incentive tax bill (H.R. 5)

Just what would H.R. 5 accomplish? First, it would authorize—subject to certain limitations—creation of a foreign business corporation through which an American firm might conduct its foreign operations, deferring payment of U.S. income taxes on a major portion of the income from such operations until such income is distributed to shareholders. By amendment of the Internal Revenue Code, H.R. 5 would permit U.S. corporations to make certain tax-free transfers among foreign subsidiaries without advance approval. It would extend the general 14-point corporate tax rate reduction now available to Western Hemisphere trade corporations to similar business activities carried on anywhere outside the United States.

In addition, H.R. 5 would permit a U.S. taxpayer to select the overall rather than the per-country limitation in computing the amount of foreign taxes which may be credited against his U.S. tax liability; it would authorize an American corporation to take credit on its U.S. tax bill for taxes "spared" by a foreign government in an attempt to attract private investment from other countries; and, it would provide for nonrecognition for corporate tax purposes of gain realized on the involuntary conversion of property owned by a foreign subsidiary.

But what of the effect on the public revenue? What has the Treasury to say of the proposal?

The Treasury's position.—Although partially anesthetized by a limited adoption of the principle of tax deferral, the Treasury's crude surgery emasculates the bill. Without commenting further on the Treasury position—which rests solely and finally on potential revenue loss—what specifically would the Treasury's suggestions do to the foreign investment incentive tax bill?

Secretary Anderson's letter of May 6 approves in principle creation of a foreign business corporation and deferral of tax on its income but with the proviso that such authority be granted only to such corporations "which obtain substantially all of their income from investments in the less-developed areas of the world," and with the further suggestion that income from exports to such areas might qualify for tax deferral if such income is reinvested in lesser developed countries. It is to be noted that no standard for the determination of what constitutes a "less-developed area" appears in Secretary Anderson's letter of comment.

Barring an amendment which would restrict tax-free transfers of business property to situations in which the transfer is from a foreign corporation to a foreign business corporation or from a foreign business corporation to one or more of its foreign subsidiaries, the Treasury opposes section 3 of the bill. Moreover, the Treasury voices unqualified opposition to extension worldwide of the 14-point rate reduction presently authorized for income of Western Hemisphere trade corporations. In the absence of restrictive amendments the Treasury opposes authorization of a choice for taxpayers between the present per-country limitation on foreign tax credit and an overall limitation. Subject to "implementation on a selective basis" the Treasury favors the principle of tax "sparing." And, subject to further study, it would approve amendment of the Internal Revenue Code to authorize nonrecognition of gains for tax purposes on involuntary conversions of property belonging to foreign business corporations.

Having thus reviewed the main provisions of H.R. 5 and the Treasury's comments thereon we should like, finally, in order to place our testimony in proper perspective to review the institute's general approach to the proposed legislation before the committee.

The institute's approach

Member companies of the Machinery and Allied Products Institute have had long, varied, and extensive experience in foreign business operations. And as we have already noted the capital goods and allied industrial equipment which they produce, are the indispensable building blocks in the industrialization of less-developed areas.

Over a period of many years—and with increasing frequency in recent years—we have seen American manufacturers resort to the device of conducting all foreign operations through a subsidiary located in a "tax haven" abroad, a "foreign base corporation," with U.S. tax on the subsidiary's income deferred until such income is remitted to the parent corporation. Hence, the deferral of tax on certain income from foreign sources is presently being accomplished, although its achievement often results in costly and inefficient administration and the availability of the device—by reason of present tax consequences of the transfer of existing assets—is limited in part to those companies currently establishing new foreign investments. Indeed, many companies which have pioneered in private investment abroad find themselves "locked in"—reluctant or unable to avail themselves of the more favorable organizational structure of competitors.

We have noted other problems. Income from foreign branches, revenues from foreign licensing of patents and trademarks, the proceeds of management and technical assistance contracts, income from the sale of products manufactured by contract abroad, and income from export sales are not accorded the same tax treatment available to income of foreign subsidiaries. Again, to avail itself of tax deferral on a foreign base corporation's income, the parent U.S. corporation must base much of the operational control of the subsidiary in a foreign country; the result is to bar the use of such a device to many smaller American corporations possessed of limited financial and managerial resources.

The foreign base corporation has, however, had one significant advantage that is wholly unrelated to tax advantage. Its use permits the centralized administration of all of a corporation's foreign operations.

Having in mind the realities of the present situation—as so briefly outlined above—the institute has long sought tax reform which would permit an equality of tax treatment as among all forms of foreign source income, and which would make possible the retention of the practical operating advantages of foreign base corporations without the inconvenience and inefficiency attaching to their present use.

On two occasions the institute has advanced specific recommendations for tax reform in this area—in its testimony before the committee's hearing on January 10, 1958, in connection with a study of general tax reform and before the hearings conducted by the Subcommittee on Foreign Trade Policy on December 3, 1958.

Having in mind these past expressions of institute views on the subject, we have summarized below our recommendations with reference to H.R. 5 and the taxation of foreign source income generally. In the conviction that our contribution to the committee's study would be most useful in those areas to which the institute has devoted major and long-continued study we offer no comment on section 4 of the bill, which would extend the tax rate reduction available to Western Hemisphere trade corporations to similar business activities anywhere outside the United States, we have made only limited suggestions on tax "sparing," and we have not commented definitely on section 7 of the bill which provides for the nonrecognition for tax purposes of gain realized by the involuntary conversion of property owned by a foreign subsidiary.

SUMMARY OF INSTITUTE RECOMMENDATIONS

Our tax laws should be amended to—

1. Authorize creation of a special class of domestic corporation through which U.S. business firms could conduct all of their foreign operations.
2. Permit deferral of U.S. income tax on all foreign business income until it is distributed or made available for domestic use.
3. Provide for a practical definition of foreign income to include dividends, branch earnings, interest, royalties, technical and management service fees, and earnings accruing from export sales.
4. Make section 367 of the Internal Revenue Code specifically inapplicable to the transfer of assets by the parent company or a foreign subsidiary to the new foreign business corporation.
5. Permit the use of a "destination test" in determining the source of export income under the Western Hemisphere trade corporation provisions of the 1954 code.
6. Grant an election to the taxpayer to use either the "per country" or "overall" limitation in the computation of the foreign tax credit.

Beyond these specific recommendations the institute suggests that further intensive study be undertaken by the Congress on means of improving certain of the more technical aspects of our tax structure as it applies to international operations and investment. Such studies should, in our judgment, include consideration of—

1. Expanding the definition of foreign taxes which qualify for the foreign tax credit.
2. Provision for a more nearly equitable treatment of capital losses on certain foreign investments.
3. The special problems created by runaway inflation in certain areas of the world.
4. Granting deferral of taxes on that portion of domestic income used to guarantee loans for new foreign investment, particularly in the lesser developed areas of the world.
5. The use of tax "sparing" or alternative means of giving greater effect to foreign tax inducements to private investment especially in lesser developed areas.

THE FOREIGN INVESTMENT INCENTIVE TAX BILL SPECIFIC COMMENTS

Our discussion of those sections of H.R. 5 on which the institute offers comments appears below.

The foreign business corporation (sec. 2 of H.R. 5)

We endorse section 2 of the bill insofar as it authorizes creation of a foreign business corporation and the deferral of U.S. taxes on income of such a corporation. However, we have a number of reservations concerning those provisions which define income qualifying for tax deferral and we question the soundness of the Treasury's recommendations with reference to the gross foreign source income limitation. In addition—and more importantly—we doubt the wisdom or the equity of the bill's treatment of export income and we are most strongly opposed to the less-developed area limitation recommended by the Treasury. After considering briefly the first two of these objections we expect to deal at somewhat more length with the latter two.

Under the provisions of H.R. 5, income derived from the "active conduct of a trade or business" would include royalties and other payments received in connection with the use of patents, trademarks, and copyrights, as well as compensation received for providing technical, managerial, engineering, construction, scientific, or like services. We suggest that this provision of the bill be amended to make clear that a foreign business corporation would be permitted under the act to include within income qualifying for tax deferral interest on loans to foreign concerns or subsidiaries.

Our second observation relates to the Treasury suggestion that the section 2 limitation on a foreign business corporation gross foreign source income be increased from 90 percent to 95 percent, thus equating this condition precedent as to percentage of total income from foreign sources with that now obtaining under the Western Hemisphere Trade Act. Treasury acknowledges, however, that the lowering of the percentage as provided for by H.R. 5 is usually justified on grounds that such reduction is necessary to avoid disqualification upon receipt of major items of nonrecurring income.

The position of the Treasury is based upon the present bill's "escape-clause" proviso which calls for termination of foreign business corporation status only after failure to meet source-of-income requirements for 2 successive years. It is important to point out, we think, that the 95-percent-source-of-income requirement for Western Hemisphere trade corporations is determined under present law over a 3-year rather than a 2-year period; hence, adoption of the Treasury's recommendation would not in fact establish an equivalent source-of-income test and may constitute a serious obstacle to the ready use of a foreign business corporation. We recommend that the 90-percent rule be retained.

The "less-developed" area limitation.—As now drafted, H.R. 5 would permit deferral of U.S. taxes on most items of income received by a foreign business corporation until such income is distributed to the corporation's shareholders. The Treasury's support of the foreign business corporation-tax deferral concept is limited to the less-developed regions of the free world, including Latin America, Asia, the Middle East, and Africa. Adoption of the Treasury's recommendation would make the Boggs bill a statutory dead letter. At one stroke the act would be made administratively unworkable; it would insure that relatively few companies would avail themselves of the incentives remaining; it would accomplish none of the act's great purposes; and curiously, it would, while preserving the incentive, remove the means by which increased private investment might be channeled to those very areas where even the Treasury concedes it would be a desirable thing.

Acknowledging that estimates are exceedingly difficult to make, the Treasury speaks of a current revenue loss ranging from $300 million to $500 million annually. We are by no means unsympathetic with the Treasury's concern over the possible impairment of the public revenue. But we submit that the Treasury's point of view is, in our judgment, shortsighted and completely oblivious to commercial reality.

We are not in a position to comment on the accuracy of Treasury estimates of short-run revenue losses, although we are reasonably certain that they are not undestimates.[1] It should be reemphasized, however, that the bill proposes only tax deferral, not reduction. Moreover, the short-run view, upon which the Treasury position rests finally, gives no consideration whatever to possible increases in future revenue by reason of increasing and increasingly profitable foreign business activity. Again, it ignores the steadily worsening position of American business in world markets—a position in part attributable to tax advantages comparable to those provided by the Boggs bill and now available to foreign competitors. The point, briefly, is this—failure to adopt legislation placing American foreign traders on a parity with competitors abroad may result in a not inconsiderable reduction of the corporate tax base itself.

We are wholly sympathetic with the administration's desire to increase U.S. private investment in less-developed areas. Given this objective, will the Treasury's proposals for amendment serve this end? We think their adoption would be disastrous.

The foreign business corporation-tax deferral device was never intended as incentive for U.S. business to operate in any particular area or areas of the world; rather, it is the recognition of a customary method by which companies conduct their foreign operations and through which they may accumulate earnings on a tax deferral basis for reinvestment abroad.

The "unitary" concept is indispensable to the proposal. Companies of all sizes are finding it increasingly desirable—indeed necessary—to conduct all foreign operations within a single organizational structure. Whether this be a foreign base corporation situated in Switzerland or a subsidiary located in this country will depend in large part upon our tax laws. The central point is

[1] Incidentally, in the interest of a complete record we think it would be desirable to ask the Treasury to supply detail on these estimates: method of computation, sample, etc.

that all operations—export, foreign licensing and foreign manufacturing—must be considered as parts of a worldwide marketing operation. To destroy the unitary concept, to restrict a foreign business corporation to doing business in the less-developed countries, is to negate the proposal now before the committee and to make it virtually useless except for those relatively few companies dealing in commodities and raw material existing primarily in such countries.

To distinguish between "developed" and "less developed" countries would mean creation of a foreign business corporation empowered to do business in Bolivia perhaps, but not in Argentina; in Colombia, but not in Venezuela; in India, but not in South Africa. Are Spain, Turkey, and Greece "developed" or "less developed"? Italy is an industrialized nation but what about southern Italy? It seems to us that adoption of the "less developed" area limitation would create an administrative hornet's nest.

From the standpoint of practical tax saving one must consider several factors. First of all, most of the industrialized countries now have tax rates comparable to those of the United States so that tax deferral and reinvestment of pretax earnings in such areas would be minimal. As for the lesser developed areas, the fact of low taxes is of little consequence inasmuch as profits earned there—at least in the early years of an investment—can be expected to be so small as to provide little, if anything, for further investment there or in other lesser developed areas. The fact is that funds for private investment abroad—in any area—must come inevitably from income in the form of license fees and export earnings.

Finally, and irrespective of tax reform, private investment will flow only into those areas abroad which provide a favorable investment climate and a natural market for the product or business operation involved. The foreign business corporation-tax deferral device can do no more than provide an incentive to facilitate and to quicken what must ultimately be a normal commercial pattern of development.

In view of these commercial facts of life, it is altogether unrealistic to suppose that a U.S. corporation now operating a very practical—if artificially located—foreign base corporation would abandon it in favor of a statutory foreign business corporation subject to the less developed area restriction.

We agree completely with the Straus report when it says:

"We believe that there should be no geographical limitation on the foreign activities and sources of income of an FBC because the diplomatic problems and domestic pressures involved in choosing particular countries or areas would make a general system of legislative or administrative selection very difficult. Moreover, since the FBC involves tax deferral rather than tax reduction, it is appropriate for investment both in developed and underdeveloped countries" [3]

Treatment of export income

Although we support generally the objectives and the main provisions of H.R. 5, we are convinced that it has one serious weakness. As we read the bill, only that portion of export income considered as income from sources without the United States under Treasury regulations would so qualify. Under present regulations of the Treasury the source of income depends, generally speaking, upon where title to the goods exported passed to the foreign buyer. Hence, export income would not qualify for tax deferral unless the American exporter had been able to assure passage of title outside the United States.

The Treasury is opposed to granting tax deferral benefits to purely trading activities which do not involve substantial investments in lesser developed areas. Thus, after conceding that export income might be permitted deferral if reinvested abroad, the Treasury suggests that desirability of a study respecting whether or not a ceiling should be placed upon the amount of export income which might qualify for tax deferral if reinvested in a lesser developed country.

Moreover, the Treasury raises the possibility of adopting the alternative of relating the amount of export income received by a company to its ability to qualify as a foreign business corporation. Reference is made to the Straus report which suggests that the foreign business corporation-tax deferral provision might be limited to companies which do not earn more than 50 percent of their gross income from export sales.

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[3] Ralph I. Straus, "Expanding Private Investment for Free World Economic Growth," a special report prepared at the request of the Department of State, Washington, D.C., April 1959.

We must respectfully disagree with the Treasury suggestion—and with the Straus report—that it would be wise to place a limitation on export income to which the tax deferral privilege should be granted. Our reasons, outlined in some detail below, are based upon the realities of conducting foreign operations.

Export and licensing income versus investment income.—Income from foreign business operations takes a great variety of forms. Therefore, any tax proposal—or, indeed, administrative action—which seeks to distinguish one form from another on the basis of its original character or its effects on reinvestment abroad can only introduce a new pattern of inequity and impose new deterrents to the objectives here sought to be attained.

A rather considerable experience with foreign operations of capital goods and allied equipment manufacturers convinces us there is no clear and definable line of demarcation—at least in these industries—between foreign income attributable directly to foreign investment in branches or manufacturing subsidiaries and income accruing from agreements for the sale of engineering know-how or the sales of items exported from the United States or from a third country. The fact is that many manufacturing companies are undergoing a virtually continuous transition from purely export sales to foreign manufacturing operations. The rate and stage of transition will vary from company to company, product to product, and country to country.

Even long-established foreign investors in highly industrialized areas capable of supporting manufacture of the broadest line of industrial equipment frequently supplement foreign production with components of U.S. origin plus the export for resale of certain types of equipment which cannot feasibly or economically be manufactured abroad. Indeed, if the United States continues to maintain its superiority in the technology of mass production and advanced design and development, it is reasonable to expect that certain products may always be more economically manufactured in this country.

What constitutes manufacturing may range from complete production to assembly or field erection. Even in the case of manufacturing subsidiaries, moreover the income of the American parent will frequently not be derived entirely in the form of dividends. Additional fees for technical and management services, research and development, and the licensing of patents and trademarks may all be involved, together with whatever income arises from export sales made by the oversea operation.

This commingling, this admixture of income from a great variety of foreign sources is today a commonplace among capital goods manufacturers doing business abroad. We have described this pattern only to emphasize our conviction that narrow and rigid application of source tests is unsound and does not carry out the announced objectives of the bill; if the income is from foreign trade transactions disposition of the income should be the real deferral test, not source.

The role of exports in foreign business operations.—Past legislative proposals in this area have sought with great nicety to distinguish between foreign investment income qualifying for special tax treatment and other income from foreign trade which did not qualify because of an insufficient foreign investment. Such proposals have customarily excluded income from licensing and export operations. Presumably, these distinctions were based upon the premise that only certain forms of tangible investment in bricks and mortar and equipment should be encouraged and thus qualify for special tax treatment. Also these distinctions reflect some concern as to abuse of foreign business corporations by international speculators. (Such problems can be dealt with by special regulatory provisions as distinguished from broad "meat-ax" exclusions.)

Such distinctions ignore an important fact of modern foreign trading—in very many situations it is the technical know-how, the management techniques or American equipment which is more urgently needed than the dollar investment in the economic development of the country. Moreover, these artificial distinctions—both legislative and administrative—have created a situation that is altogether impractical and unworkable for American manufacturers.

Let us keep our objectives clearly in mind. The Boggs bill's recital of purpose proposes an amendment to the Internal Revenue Code "to encourage private investment abroad and thereby promote American industry and reduce Government expenditures for foreign economic assistance."

The central purpose is the encouragement of private investment abroad. Inasmuch as the total of such private investment represents the sum of thousands of individual business judgments, it seems to us proper to examine this problem through the eyes of a typical capital goods manufacturing company and to consider the effect of export income on that company's judgment.

Suppose our hypothetical manufacturer is now in midflight in the transition from purely export operations to oversea manufacture in one form or another. Immediate taxation on the income from certain of his export sales may be avoided through the device of a foreign base corporation; thus this income—with U.S. taxation deferred so long as it is not distributed to the American parent—is immediately and wholly available for reinvestment abroad. Income from other export sales—by reason of customer requirements or foreign legal problems which demand passage of title within the United States—does not qualify as foreign source income. It is immediately subjected to the full rigor of the corporate income tax and the sum available for reinvestment abroad has been reduced by the applicable American tax. As we have already seen, export income is an integral and indispensable link in the chain of circumstance by which the company expects eventually to establish foreign manufacturing operations. What greater incentive to increased private investment can be offered than the opportunity to defer taxes on all export income?

We repeat that export operations, the licensing of patents and trademarks and the provision of technical, managerial, and scientific services—at least in a manufacturing company—are so integrated into a company's overall international operations that it is difficult to distinguish between the several phases; moreover, any legislative action—either to encourage or discourage—which affects one necessarily affects all. Undoubtedly, the greatest virtue of the foreign business corporation approach is its creation of a vehicle through which a company may conduct all of its foreign operations as a world corporation—and, today, anything less does not square with the commercial facts of life. Any tax reform approach which fails to recognize this might, in our judgment, be worse than no action at all.

Admitting the truth of our statements concerning the role of export income in a company's foreign operations, a critic might still inquire properly if our suggestion for making all export income eligible for tax deferral would not be unfairly advantageous to the company whose foreign operations are purely export and which has no plans and no intentions of investing directly in any foreign country. An examination of H.R. 5 provides the answer to the question. The proposed legislation—wisely, we think—limits tax deferral, for all practical purposes, to income of a foreign business corporation which is reinvested abroad. Assuming no actual or prospective needs for foreign investment, there is no reason to postpone taxes on export income except as the exporter may choose to accumulate foreign earnings through the FBC device on the chance of future corporate tax rate reductions. And Congress has long since covered this bet with legislation governing unreasonable accumulations of corporate earnings. In sum, the deferral of taxes—and the postponement of revenue—will vary in direct proportion to the amount of foreign source income employed in oversea investment and expansion of international operations.

The smaller business.—Any discussion of tax incentives to increased private investment abroad cannot fail to consider the situation of the smaller corporation. Frequently, such a company has no experience and no foothold in foreign trade except by direct export of its products. Moreover, it may lack either the financial or managerial resources to avail itself of a foreign base corporation. To maintain its world market position—in the face of rising foreign competition—it must resort to licensing agreements with foreign manufacturers or to partial or complete production abroad.

For the typical smaller manufacturers, much, if not all, of the funds necessary to maintenance of its world market position by investment abroad must come from export and licensing income. In a somewhat lesser degree this is true of all capital goods manufacturers—even those with substantial preexisting foreign investment.

Thus, we suggest that a foreign business corporation-tax deferral approach which includes export and licensing income would be of the greatest benefit to the smaller manufacturer in maintaining a reasonably competitive world market position. With all, or a major part, of such income excluded this really important advantage to the smaller firm would be largely destroyed.

The qualification of export income for tax deferral.—As we have already seen, present Treasury regulations distinguish for tax purposes between varying types of export income—thus, income from export sales where title to goods passes outside the United States qualifies for special tax treatment under the Western Hemisphere trade corporation provisions of the code; where title passes within the United States the WHTC tax privilege is denied. The distinction is wholly artificial.

Given freedom of choice a U.S. exporter may be expected normally to arrange his terms of sale in such a way as to insure passage of title abroad. However, a number of factors may intervene to prevent this. For example, manufacturers of heavy equipment frequently find that the customer desires to take title in the United States in order to facilitate the payment of insurance premiums, shipping costs, etc., in his own currency. There are numerous other commercial, financial, and legal considerations which, on occasion, will necessitate the passage of title to equipment in the United States even though consummation of the sale has been preceded by a whole range of activities abroad—in developing the sale, in engineering evaluation and customer service. Thus, the result as determined by Treasury regulations is largely fortuitous and, in many cases, wholly beyond the control of the exporter involved.

Differing tax consequences on otherwise similar sales are not only artificial but inequitable and the inequity is especially disadvantageous to the smaller business.

The present rule, in sum, is largely a legalistic determination depending wholly upon form and disregarding substance. The most workable test, of course, would appear to be the ultimate destination of the export—not the point at which title passes.

For these reasons we repeat two recommendations for legislative action which appear in our earlier summary of institute recommendations:

1. H.R. 5 should be amended clearly to include export income within the purview of the tax deferral privilege by establishing a destination-of-shipment test to be used in determining whether or not export income is derived from foreign sources; and

2. Congress should enact H.R. 7011, introduced by Mr. Curtis, to amend the Western Hemisphere trade corporation provisions of the code by introducing the destination-of-shipment test.

The tax-free transfer of foreign business property (sec. 3 of H.R. 5)

Before proceeding to any direct discussion of section 3 of H.R. 5 a brief review of the background to this proposal is in order.

Tax law has long permitted nonrecognition of gains resulting from transfers or exchanges of property in connection with corporate reorganizations. However, section 367 of the code stipulates that a transfer or exchange of property involving a foreign corporation shall not be afforded such favorable tax treatment unless the taxpayer has obtained, prior to the transfer, an advance ruling from the Internal Revenue Service indicating its satisfaction that the exchange is not, "in pursuance of a plan having as one of its principal purposes the avoidance of Federal taxes."

With few exceptions, the Treasury has not interpreted section 367 that foreign earnings, which have never been subject to U.S. taxes, cannot be transferred either to the U.S. parent or to another foreign subsidiary for further investment abroad without payment of income or capital gains tax at the time of transfer. Moreover, this interpretation is followed even though the U.S. company is simply transferring ownership in one foreign subsidiary to another foreign subsidiary. As a result, foreign business organization has become frozen into an illogical and tax-dictated structure composed of subsidiaries, foreign base corporations, and foreign branches organized at different times and in response to differing conditions.

The present tax situation under section 367 is particularly burdensome for companies which pioneered in American private oversea investment and now have long-established foreign operations. Moreover, its existence contradicts the main premise underlying past administration recommendations for encouragement of private foreign investment.

The administration of section 367 is subject to still another serious criticism. Most of the Revenue Service rulings under this section remain unpublished; as a result the taxpayer seeking guidance has little or no information upon which to proceed short of taking the time and expense of applying for an individual ruling. And the Revenue Service, we understand, is currently faced with a backlog of applications for section 367 rulings.

Section 3 of the Boggs bill would attempt to remedy this situation by permitting tax-free transfers generally of capital stock or other assets among subsidiary corporations engaged in foreign business operations. This provision is, of course, a necessary part of the overall reform intended by H.R. 5—its language is designed to allow the reorganization of oversea activities so as to permit an American corporation to avail itself of the tax deferral possibilities and the organizational advantages of the foreign business corporation. Specifically section 3 would permit transfer, without recognition of gain for tax purposes, of foreign business property which (1) was previously used directly or indirectly in the active conduct of a trade or business at least 90 percent of the gross income of which was derived from sources without the United States; and (2) is similarly used, within 6 months after the transfer, either directly or indirectly by the transferee.

In its comments, on H.R. 5 the Treasury suggests that tax-free transfer authorized by section 3 be limited to permit such transfers only when the transfer is from a foreign corporation to a foreign business corporation or from a foreign business corporation to one or more of its subsidiaries.

Failing adoption of the limiting amendments which it suggests, the Treasury has indicated its opposition to section 3 of the bill on the general grounds that the section's present language would provide greater incentives for subsidiaries incorporated abroad than for "foreign business corporations" incorporated in the United States.

We strongly support section 3 of the Boggs bill and we regard its adoption in substantially its present form as an indispensable part of the incentive to promote foreign investment which the bill's proponents seek. The foreign business corporation tax deferral package is of no value whatever to a company denied its use by the present section 367 of the code and the Treasury's administration of that section. Treasury recommendations in this regard—although their ultimate effect is somewhat less than perfectly clear—strike us as too narrow in concept and might lead to still another example of good law hamstrung by niggling administration. For example, it is by no means clear from Treasury recommendations that their adoption would permit tax-free transfers of property directly from a U.S. parent to a foreign business corporation.

Other provisions of the Boggs bill

Our comments on other provisions of H.R. 5 appear below.

Overall versus per country limitation on foreign tax credit.—The Treasury's objections to the main provisions of H.R. 5 rest solely and finally on current loss of revenue. And on this ground it opposes the bill's substitution of an "overall" for the present "per country" limitation on the allowance of credit for foreign taxes paid by an American company.

We concede the problems involved to which the Treasury's statement adverts and—as we said at the outset—we are wholly mindful of the revenue problem posed by the legislation proposed now before the committee. Nevertheless, adoption of a unitary concept of foreign business management—a concept which is part and parcel of the foreign business corporation here proposed—would seem logically to require treatment of foreign tax credits on the same global basis. At the very least we urge that the matter be given further study.

Tax "sparing."—We note with interest the Treasury's general approval of the principle of tax "sparing." This is an aspect of the general problem of foreign source income taxation to which the institute has not given major attention. However, we should like to renew our suggestion of December 3, 1958, before the Foreign Trade Subcommittee that this area deserves further and comprehensive review having in mind the general purposes of the foreign investment incentive tax bill.

Nonrecognition of gain on involuntary losses (sec. 7 of H.R. 5).—Subject to the promulgation of administrative regulations designed to prevent any possible abuse, we endorse section 7 of the bill which provides for nonrecognition of gain for tax purposes on involuntary conversions of a foreign subsidiary's property. Recognizing the Treasury's desire to avoid encouragement of the use of foreign corporations and foreign holding companies it seems to us elementary equity to extend to foreign traders generally the same tax advantage in involuntary conversion situations now available to a domestic corporation.

This concludes our comments on the foreign investment incentive tax bill. We are grateful for this opportunity of presenting the institute's views and we should like once again to express our appreciation for the committee's having taken time from an already overburdened schedule to hold hearings on this most important piece of proposed legislation. If the institute, its staff, or the foreign experience of its members can be of any further assistance to the committee we should welcome the opportunity to help in any way.

Respectfully submitted.

CHARLES W. STEWART,
President, Machinery and Allied Products Institute;
Chairman, Council for Technological Advancement.

STATEMENT OF ANDREW J. BIEMILLER, DIRECTOR OF LEGISLATION, AFL-CIO

The AFL-CIO supports H.R. 5 in its present form because it encourages the proper channeling of U.S. investment abroad. In the judgment of the AFL-CIO, at this time encouragement or tax incentives for U.S. investment overseas should be restricted exclusively to the less developed areas and limited to operations in those countries which abide by fair labor standards.

The AFL-CIO made known its objections to the broad provisions in H.R. 5, as originally reported by the House Ways and Means Committee. In the original bill, H.R. 5 provided merely for the establishment of a foreign business corporation with tax deferral until the corporation's earnings were returned to the United States. In that form, therefore, H.R. 5 would have been applicable to any U.S. corporation which decided to operate through a foreign business corporation anywhere in the world.

The amendments to H.R. 5 which were added after it was originally reported are essential to the proper channeling of foreign investment. These include restricting the tax deferral to those foreign business corporations which operate in the less developed countries, further limiting the deferral to those corporations whose operations in the less developed countries abide by the fair labor standards of the particular country and, finally, preventing tax deferral from applying to any foreign business corporation in an underdeveloped country if the corporation earns more than 10 percent of its income from sales in the United States.

The latter provision is particularly important. American industry and American workers are constantly confronted with problems caused by the establishment of corporations and manufacturing plants overseas to make products identical to those produced in the United States for export back to the United States. Our support for encouraging foreign investment is not to be interpreted as a desire to ignore or add to those problems. For this reason, the provision in H.R. 5 which denies tax deferral to the foreign business corporation which receives more than 10 percent of its earnings from sales in the United States is necessary. This provision is designed to reach the problem of producing mostly for the U.S. market.

It would, in fact, be appropriate for the Senate Finance Committee to extend this principle to other types of American business, such as the foreign subsidiary operating overseas. A provision could deny tax deferral to any foreign subsidiary which receives more than 10 percent of its income from the sale of products in the United States, particularly where the product is identical to the one the parent company does or did produce in the United States.

ENCOURAGEMENT OF INVESTMENT OVERSEAS

The reason for the opposition to unrestricted encouragement of investment overseas is that there are already large-scale American investments in many highly developed nations of the world, and such direction of capital needs no further encouragement. We do not believe that American companies need receive any further tax incentive to invest in countries in the Common Market area or in the Outer Seven countries or any other Western industrialized nations.

The problem at present is that American capital is already flowing in too great quantities into such developed countries and in too small quantities to those less-developed countries most in need of American capital.

It would be particularly inappropriate, therefore, to extend the Western Hemisphere Preference Clause to companies operating in other parts of the world. The AFL-CIO, in fact, questions the advisability of even retaining the Western Hemisphere preference clause in our present laws.

But American capital can play an important role in some less-developed areas and should be directed toward them. Further tax incentives are needed to send American investments toward those areas. At the same time, further incentives are needed to see to it that American investments in the less-developed countries help to promote viable economies by fostering fair labor standards appropriate for those nations. Such incentives would aid, rather than hinder, some increasing problems of trade among the various nations. In addition, the incentive should not be to invest in the nations for the purpose of causing havoc in the U.S. market.

For these reasons, we support H.R. 5 in its present form. This bill with its present limitations and restrictions on the incentives granted to investors in foreign nations includes about as much encouragement as is appropriate at this particular time for investment overseas.

We urge the Senate Finance Committee, if they decide to report out H.R. 5, to retain those important limitations and restrictions on tax incentives, because they are necessary for the proper channeling of investment. All these provisions are essential: Restricting tax incentives to those companies investing in less-developed countries will encourage the direction of capital to the places where it is most needed. Limiting tax deferral even in those areas to those companies which do not receive more than 10 percent of their income from sales to the United States encourages beneficial rather than harmful investment in those nations. Requiring foreign business corporations to abide by the fair labor standards provisions of the countries in which they invest will help encourage the healthy development of other economies. Any deviation from these provisions would merely encourage investment in those developed nations which do not have as great need for American capital. Incentives for such investment are unnecessary and unwise.

We therefore support H.R. 5 as passed by the House of Representatives without change.

Statement by Chad F. Calhoun, Vice President, Kaiser Industries Corp., on H.R. 5

Mr. Chairman, my name is Chad F. Calhoun, of Washington, D.C. I am vice president of Kaiser Industries Corp., and its affiliated companies, including Henry J. Kaiser Co., Willys Motors, Inc., Kaiser Aluminum & Chemical Corp., and Kaiser Steel Corp.

The Kaiser companies welcome this opportunity to express our views concerning the subject matter of H.R. 5. We are particularly pleased to discuss this legislation because the Kaiser companies, like numerous other American private business enterprises, have a vital stake in the future of the free world.

Today, the Kaiser companies are investing capital, technical skills, and know-how on every continent and particularly in the less developed countries. We are working with local private businessmen in several countries of South America (principally Brazil and Argentina), and in the Middle East; and we have projects underway in India, Ghana, and Australia.

We are quite sensitive to what we believe the basic fact of international life in the era of the 1960's: That the less developed countries of the world will insist on emancipating themselves from poverty by development of an industrial base within their own territories. We must make a superhuman effort to accomplish this and encourage them to accomplish it within the frame of reference of a democratic, free-enterprise society instead of through a Communist dictatorship. This can be greatly helped if American private investment is given encouragement and incentive to run the great risk of investment in these less developed areas and to reinvest in the future current profits earned there.

Our business experience in the past few years in our work in the less developed areas has made us aware of not only the risk in foreign investments, but also that these risks are often compounded by our own tax laws, and their interaction with the tax laws of the other countries. We believe that many other American firms have had these same experiences. More important, we could probably undertake many more projects in the less developed areas in the future if we could anticipate the opportunity of reinvesting in less developed areas, future profits from such areas without having first to pay U.S. income tax on those profits.

For these reasons we warmly endorse the principles of H.R. 5. We feel this bill carries out in a practical way the fundamental objectives of U.S. national policy with respect to the economic development of the less developed areas of the free world. Basically, we understand these objectives to be:

1. To encourage the mobilization of U.S. private enterprise capital to meet the challenge presented to the United States, as the leader of the free world, by the rising requirements for capital, equipment, technical skills, and industrial know-how in the less developed nations.

2. To stimulate the introduction of American industrial know-how and technical skills and to channel the international movement of assets and goods, so that private enterprise may bring its competence to bear in the areas when the need and the competition from our adversaries are the greatest.

3. To complement the governmental effort to develop the less developed countries by adding thereto the unique qualities which the private business development effort can and should offer in meeting the needs of the "revolution of rising expectations."

We believe in and support these objectives. We are firmly convinced that the resources of private business enterprise can and must increasingly be applied in assisting the orderly economic growth of other nations. The advantages which U.S. private business investment abroad offers in furtherance of our national policy objectives are thoroughly set forth in the report of Ralph I. Straus, special consultant to the Under Secretary of State for Economic Affairs, entitled "Expanding Private Investment for Free World Economic Growth."

We do not intend here to restate these advantages. But we would emphasize one point. This Nation has relied primarily on private enterprise and individual initiative to achieve economic growth. At the same time we have preserved and enhanced the fundamental dignity of the human being. The experience that American business has gathered in this process and the example which its success affords to others now choosing methods to industrialize should play an important role in the struggle for the free world.

Permit me to cite a few brief examples of the ways private investment can assist in free world economic growth from the experience which I am most familiar with, that of the Kaiser companies. Many other private U.S. business enterprises have similar experiences to offer. I have chosen India because it is a key country in the battle.

Willys Motors is in partnership with almost 10,000 private investors in India in developing a native automotive industry. Willys has contributed capital, equipment, know-how, and technical skills. Yet, this is an Indian company, organized and primarily owned by Indian investors, with Willys participating as a minority stockholder. This company, Mahindra & Mahindra, Ltd., is today producing in India "Jeeps" and other automotive equipment particularly adapted to the needs of the country.

Similarly, Kaiser Aluminum & Chemical Corp., is investing substantially in the establishment of an indigenous Indian integrated primary aluminum industry. India has bauxite, electric power, and other ingredients necessary to produce primary aluminum. Yet India has not been able to satisfy its expanding requirements for this metal from its own sources of supply nor has it been able to import its total requirements because of a foreign exchange shortage. Kaiser Aluminum is investing capital, know-how, and technical services in an Indian privately owned company, Hindustan Aluminum Corp., Ltd., and will receive a minority stock interest in return. Kaiser engineers will handle the design and construction supervision. The majority interest and the active management of this enterprise will be provided by the citizens of India.

We have also participated as engineers and constructors in the expansion of the privately owned Indian steel industry and have invested in a new cement company to be organized in the State of Mysore in southern India. A portion of these new investments will be made out of earnings on our earlier investments in India.

Our experience in India illustrates one way through which private U.S. enterprise may assist the peoples of many countries in establishing a firm foundation for economic growth, utilizing the basic economic systems which distinguish the Western World. We strongly believe free world economic growth particularly in the newly developing countries is essential in combating the spread of Soviet imperialism in these areas.

We are confident we can do far more under the provisions of this act than we have already been able to do. We feel that other American companies would also be able to do far more.

Any mechanism for encouraging American private enterprise to assume increasing responsibility in the achievement of our national objectives must be accommodated to the fact that U.S. private business must of its nature recognize the importance of the profit motive. This is the keystone in our economic system. Private capital, know-how, and technical skills cannot long exist unless they are invested on this basis. This principle applies with equal force to private investment in the United States and to private investment in the newly developing countries of the free world.

Like many other U.S. industrial firms, our experience has been that the ability to invest American capital, techniques, skills, and know-how in other countries is seriously restricted by certain U.S. tax requirements. U.S. business frequently receives stock or securities in return for investing in the foreign business equipment, know-how, and technical services. The paper profit on this stock must be included in U.S. taxable income and a cash tax paid thereon even though no cash return has been received from the investment. It can readily be seen that the payment of taxes on paper profits under these circumstances, before there is any cash or actual gain realized, not only discourages U.S. private investment in foreign countries, but can actually encourage the liquidation of such investments as have been made in order to pay the tax. Provisions of H.R. 5 which would permit a foreign business corporation to defer the U.S. tax on such paper profits would be a great assistance.

We have also found that when earnings do commence from foreign investments, we frequently would wish to reinvest them in other productive activities in the same or a different foreign country. This process of reinvestment of foreign earnings should be an important source of capital to the economies of the newly developing countries. Yet, under existing law if such earnings are reinvested, an American income tax thereon must be paid, even though the earnings are not brought back to the United States. Because of this deterrent, the ability to reinvest foreign earnings under these circumstances is seriously curtailed and an important source of capital to the newly developing countries is denied.

Based upon the experience of the Kaiser companies, we believe that foreign business corporations should be permitted to defer tax on a substantial percentage of the income that the foreign business corporation has derived from exports. This type of income in our experience is closely allied to investment income and the relationship of the two types in a single investment program for a given country is very close. For example, a U.S. firm might begin its relationship with a foreign customer by exporting finished products. Later the U.S. exporter may wish to invest in a new foreign plant to be owned jointly with the customer on an arrangement where some of the components are manufactured abroad and some are manufactured in the United States and exported to the foreign plant for assembly, together with locally made parts, into the final product. The Kaiser companies have had this very experience several times. If the U.S. exporter could defer U.S. tax on the profits from these exports by reinvesting them in the less developed areas, a powerful new incentive would be created for building up the industrial basis of the less developed countries.

It is essential to emphasize that H.R. 5 does not contemplate exemption of these profits from tax, but merely a deferral of such tax until the profits are brought back to the United States.

Furthermore, if our businesses are not encouraged to make such investments to enable these countries to meet their needs locally instead of by imports, someone else will. We believe that whatever objections may apply to the deferment of export income where sales are made to modern industrial countries have been overcome by the limitation of H.R. 5 to the less developed countries.

The enactment of H.R. 5 is a key step in furtherance of our own national policies. The multitudes on every continent who have not attained an economic standard that provides something more than the bare necessities to maintain life are determined to attain economic growth. Inevitably, they will turn to the political and economic system that appears best able to provide the means.

In determining the direction of their choice, American private enterprise has done much. With a little encouragement it can do much more. H.R. 5 will provide this encouragement.

There may well be additional provisions for encouragement of foreign investment which we have advocated in the past and which would further the objectives of H.R. 5. The bill as it passed the House is the product of careful study and thought. It may be that experience in practice will show needs for improvement or extension, but this experience will become available only if we make a start by enacting H.R. 5. The purposes of the bill are clear and good. We strongly urge its favorable consideration.

CHAD F. CALHOUN,
Vice President, Kaiser Industries Corp.

THE FIRST NATIONAL BANK OF BOSTON,
Boston, Mass., June 3, 1960.

Hon. HARRY F. BYRD,
Chairman, Finance Committee,
U.S. Senate, Washington, D.C.

DEAR SENATOR BYRD: As you know, the House of Representatives recently passed H.R. 5, the Foreign Investment Incentive Act, introduced by Congressman Hale Boggs of Louisiana. We understand that this bill is now pending before your committee.

The First National Bank of Boston urges you to support this bill.

Briefly stated, H.R. 5 would amend the Internal Revenue Code of 1954 to provide for the establishment of a new class of domestic corporations to be known as foreign business corporations, which must derive substantially all of their income from business activities in "underdeveloped countries." The foreign source income of foreign business corporations would not be subject to U.S. taxation so long as it is reinvested in the taxpayers' foreign trade or business. As soon, however, as the foreign source income is distributed to shareholders or used within the United States, that income will be subject to United States taxation at normal rates.

As a national bank with a number of branches abroad actively serving American business, we wish to take this opportunity to express our wholehearted support of the bill and of its underlying philosophy of encouraging the expansion of private investment in other countries and thereby promoting the continued growth of American industry.

We also believe that H.R. 5 should be enacted because it would make it possible for all segments of American business more effectively to meet foreign export competitors and to combat the current Communist trade offensive in foreign countries. The bill would also make it possible for small businesses to compete in the foreign field on an equal footing with their larger competitors and would, in addition, reduce the need for increased expenditures by the Government of American taxpayers' money for foreign economic assistance programs. We write you this letter in furtherance of a telephone call made to you by Harold G. Brown of Winchester, Va., at the request of my associate, John Richardson.

Yours very truly,

LLOYD D. BRACE,
Chairman of the Board.

STATEMENT OF INTERNATIONAL HOUSE OF NEW ORLEANS, LA., FAVORING H.R. 5

International House of New Orleans strongly recommends the passage of H.R. 5. International House is a private nonprofit organization maintained by almost 2,500 businessmen, concentrated mainly in the Mississippi Valley. Our aim and purpose is to help bring about a higher level of international trade and thereby further the development of international peace and understanding. We strongly support H.R. 5 as we have supported other farsighted Federal legislation calculated to permit the United States to play an important role in world trade.

International House and Time-Life sponsored a highly successful Inter-American Investment Conference in 1955. An outgrowth of this conference has been the close association between International House and investor groups, both large and small, and both American and foreign. We have thus held an advantageous position from which to observe why overseas investments are made and why potential investment transactions often do not materialize.

Many foreign businessmen detect what they consider to be a large gap between our outcries in favor of the economic solidarity of the free world and our day-to-day actions in the economic field. Rarely does a day pass when the press services are not carrying overseas the summary of yet another public address in which the underdeveloped nations of the world are reminded of the desirability and the superiority of the free enterprise system. American tourists and businessmen overseas enthusiastically credit the relatively high investment rate in the United States as playing an important role in the growth of the economy.

No businessman overseas would take issue with these statements—as they apply to the United States. But with regard to their own respective countries they may have strong doubts that sufficient private investments will ever be forthcoming to insure the establishment of a durable free enterprise economy. Certainly the flow of American investment funds into many countries has been but a fraction of what one would normally have expected from the largest trading Nation in the world and the acknowledged political and economic leader of the free world.

The reasons for the comparatively modest flow of American investment funds overseas are directly related to the prospects for a reasonable profit on overseas operations. To the extent that political instability, foreign exchange fluctuations and other uncertainties exert influence in a given foreign area, the prospects for profit must be higher to swing the balance in favor of making an affirmative investment decision.

Every potential foreign investment must compete against attractive investment opportunities which still exist in abundance in our own country. This is particularly true of the small- and medium-sized investor, the man who is seriously considering making only one or two investments overseas rather than establishing a worldwide marketing operation.

The United States has a basically free enterprise economy which means that business decisions are in the hands of individuals and corporations who are motivated by prospects of making profits. If we agree with these facts and if we agree that it is in the best interests of the United States and the free world to spur foreign investments, then the question which must be posed consists of the following: What can and should the U.S. Government do to make foreign investment prospects for its citizens at least as equally as attractive as investments in the United States?

We believe that H.R. 5 represents a constructive step in assisting American free enterprise to display the leadership incumbent upon the Nation which today leads the free world. The enactment of H.R. 5 will not unleash a flood of investments overseas, but it will, in our opinion, help bring about a sizable number of investments which have been deferred indefinitely due to the profit uncertainties and the administrative difficulties involved. More important the passage of this legislation will create a new climate, in which there will exist a new stimulant for investors who have heretofore shied away from the foreign field entirely, to reconsider their decisions and to take decisive steps to go abroad.

H.R. 5 would, in our opinion, postpone the collection of certain taxes and would, by providing the incentive for new investments, create entirely new tax revenue. Let us face the facts. What is sorely needed today is not yet another noble declaration of free enterprise principles but a positive and meaningful mandate for U.S. private enterprise to carry out its important role in developing the world economy and in raising world living standards. If American free enterprise is not permitted to do the job, the task of reinforcing the economies of the free world will fall to either the U.S. Government or to the Communist bloc operating through native subversive groups. In such a contest, the outcome might very well go against us. We respectfully submit that in recommending the passage of H.R. 5 this committee will be taking a decisive step in marshaling the support of one of this country's most important assets, free enterprise, in bolstering the free world.

WHIRLPOOL CORP.,
St. Joseph, Mich., June 14, 1960.

Re H.R. 5.

Hon. HARRY F. BYRD,
Chairman, Finance Committee, U.S. Senate,
Washington, D.C.

MY DEAR MR. CHAIRMAN: Whirlpool Corp. has supported H.R. 5 since its inception in 1959. We continue to support the principles embodied in this highly significant legislative proposal which is now before your committee.

We venture to suggest that H.R. 5 merits the support of your committee for at least these three reasons:

(1) This legislation will equalize the lethal oversea competition between American corporations and foreign corporations who now enjoy the advantages of tax deferral on the income which they earn from their foreign business.

(2) In the struggle with the Soviet Union for the allegiance of the developing lands, American capitalism has infinitely more to offer the people of the world's poor lands than the imperialism of the U.S.S.R. When private U.S. enterprise builds a plant overseas, establishes a new licensing arrangement, or creates a distributorship for American products, it creates disciples for U.S. capitalism. By the same token, a steel mill or cement factory built by the U.S.S.R. becomes a part of the Soviet arsenal for the conquest of the underdeveloped world.

(3) It has been a cardinal policy of the United States under Democratic and Republican administrations to assist the underdeveloped lands. We do this now largely through the annual foreign aid appropriations. The President and his administration (as well as many Members of the Congress) have urged that private industry assume a larger role in channeling investment funds into the underdeveloped lands. If H.R. 5 is enacted into law, it will facilitate this endeavor. This legislation can, therefore, serve to diminish the drain on taxpayers' dollars by providing for a greater utilization of stockholders' dollars.

It is our earnest hope that you and your colleagues will see fit to report H.R. 5 out of committee promptly.

Favorable action by the Senate on H.R. 5 before adjournment will dramatize for the Communist world and the free world that the Congress of the United States regards oversea investment by U.S. business as a paramount instrument of American foreign economic policy.

It will be appreciated if this letter might be incorporated in the record of the hearings held before your committee on June 13, 1960.

With best wishes and kindest regards.

Very sincerely yours,

PETER R. NEHEMKIS, Jr.

W. R. GRACE & CO.,
New York, N.Y., June 16, 1960.

Hon. HARRY F. BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: There is presently before your committee for consideration H.R. 5, Foreign Investment Incentive Act of 1960. As a company with extensive operations abroad and one which is constantly considering new ventures as well as adding to its investments in existing businesses in various areas of the free world, W. R. Grace & Co., presented its position in support of this legislation at the public hearings before the Committee on Ways and Means of the House of Representatives held on July 7, 8, and 9, 1959. There is set forth on pages 163 through 171 of the record of these hearings the statement of the writer on behalf of W. R. Grace & Co. before the House Committee on Ways and Means. A copy of this statement in support of H.R. 5 is filed with the Finance Committee.

Sincerely yours,

K. A. LAWDER.

(Whereupon, at 2:55 p.m., the hearing was recessed to reconvene at the call of the Chair.)

FOREIGN INVESTMENT INCENTIVE TAX ACT OF 1960

TUESDAY, AUGUST 23, 1960

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C.

The committee met, pursuant to notice, at 10:20 a.m., in room 2221, New Senate Office Building, Senator Robert S. Kerr presiding.

Present: Senators Kerr, Frear, Anderson, Gore, McCarthy, Williams, Carlson, Bennett, and Curtis.

Also present: G. N. Buffington, attorney, international tax staff, Treasury Department; Evelyn R. Thompson of the committee staff.

Senator KERR. We have two witnesses to appear before us on H.R. 5, Senator Gore and Mr. Biemiller. We will first hear Senator Gore.

Senator GORE. I am going to insert mine in the record, and I talked to the AFL-CIO and they are likewise going to do that if that is satisfactory.

Senator KERR. I would say if that is desirable, Senator, we are willing. We would be delighted to hear him or have his statement printed in the record, as he wishes.

Senator GORE. I think I could persuade him on the floor if it ever reaches a vote.

Senator KERR. The statement of Senator Gore will be inserted in the record.

(The document referred to follows:)

STATEMENT OF SENATOR ALBERT GORE, OF TENNESSEE

Mr. Chairman, I appreciate very much the opportunity of appearing before the committee this morning to discuss the bill H.R. 5, the so-called Boggs bill. The very brief hearing which was held on June 13 did not, in my opinion, allow for sufficient discussion of this bill. I was absent because of other pressing business in the Foreign Relations Committee, and regret that I was unable to hear the testimony of Senator Javits, Congressman Boggs, and others who testified.

H.R. 5 started out as an effort to deal constructively and comprehensively with the problem of taxation of income earned abroad by American business enterprises. Somewhere along the way it got pretty well hashed up. It now amounts to very little, as a practical matter, except insofar as it establishes yet another loophole in the tax laws, a loophole which, I am sure, would receive active assistance in its growth within a very few years.

This bill attempts to deal with a problem piecemeal. It is always difficult to deal with a problem piecemeal. As a total solution to the foreign income tax problem, the foreign business corporation might be acceptable if its implementation were accompanied by other appropriate changes in our tax laws. It does represent some sort of compromise between those who feel that income earned abroad should be fully taxed and those who feel that income earned abroad should not be subjected to any U.S. tax whatsoever. In fact, it is from this latter group that this bill, in its present form, draws most of its support.

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Now, this bill must be examined in the light of existing law, none of which is proposed to be changed. When examined in this light, this bill appears for just what it is, merely one more loophole in a tax structure which already has more holes in it than a minor league infield.

Consider some of the ways in which income earned abroad is already escaping at least part of the U.S. tax.

1. *The Western Hemisphere trade corporation.*—Some have said that this provision of law has come about somewhat by accident. Be that as it may, it is usually extremely difficult to take away a privilege once it has been exercised.

In 1942, the revenue bill for that year, after it had passed the House, was amended in the Senate Finance Committee to give a tax advantage to certain U.S. corporations doing business in the Western Hemisphere.

Several witnesses came before the Finance Committee and testified to the effect that the high wartime tax rates would put them out of business in Latin America. According to experts in this field, the main beneficiaries of this requested gift were a mining company in Bolivia, a telephone company in Argentina, and a railway company in Central America.

These companies have continued to enjoy their favored tax position, along with other companies which have been able to qualify. Qualification has, in fact, been made easier by changes accomplished in the 1954 code.

2. *Foreign tax deduction plus credit for subsidiaries.*—Here is another provision of law which has come about, I am convinced, because of poor drafting, rather than by design.

Section 902(c) (1) of the Internal Revenue Code of 1954 states:

"The term 'accumulated profits,' when used in this section in reference to a foreign corporation, means the amount of its gains, profits, or income in excess of the income, war profits, and excess profits taxes imposed on or with respect to such profits or income;".

As a result of this wording, the foreign tax is credited against the earnings of the company, less the amount of the foreign tax paid.

Let me illustrate mathematically what this means. Suppose a foreign subsidiary earns $100 and pays a foreign income tax on those earnings in the amount of $20. Let us suppose, further, that the entire $80 is thus paid in dividends to the parent corporation. This parent corporation, then gets a credit for $16 tax against the U.S. tax. Assuming a 52-percent tax rate for this company, then, it ends up paying a U.S. tax of $25.60 on the $80 received from its foreign subsidiary.

Now, if the income subject to tax had been computed properly, as it is in the case of a branch rather than a subsidiary, the U.S. tax would have been $32.

The law was drafted in this way in 1918 and, although no justification exists, all efforts to change the law have been resisted. In effect, the U.S. company, in the case of a foreign subsidiary, gets both a deduction and a credit for its foreign taxes.

3. *Choice of per country or overall limitation.*—Earlier during this session, the House passed the bill, H.R. 10087, as did the Senate with some amendments. To date there has been no action on this measure by the conference committee.

4. *Tax sparing treaties.*—There is pending now before the Foreign Relations Committee a tax treaty with India which proposes to give American companies a foreign tax credit for taxes which they do not pay.

In reading over the testimony of various witnesses before the House Ways and Means Committee and the Senate Finance Committee, I find a common thread of thought running through most of the testimony. That thread is the feeling expressed in various ways that income earned abroad should not be taxed by the United States at all. The specific reasons that are advanced for this bill, however, are not quite so extreme. I find three main arguments.

(1) The provisions of this bill will replace foreign aid. This argument has been pushed to somewhat ridiculous extremes. Assuming that this bill resulted in a tremendous expansion in foreign investment, would such investment build up the public sector of the host country? In most of the underdeveloped areas we find a situation which calls for a vast improvement in transportation, communications, education, and public administration. These can, by no stretch of the imagination, be supplied or be much improved by American private investment.

I have heard many people illustrate this argument by referring to the buildup of the United States in the 19th century by British, and other European, capital. People who advance this argument overlook two very important points. First, a great deal of this capital was brought over or accompanied by immigrants who came here to stay. Second, most of the capital otherwise made available went into transportation and communications, particularly railroad construction. Today transportation, particularly in most foreign countries, is a part of the public rather than the private sector of the economy.

(2) It has been said that this bill will increase American investment abroad. I am not sure this is true. Investment goes where the best profit is to be made. An American enterprise looking for suitable foreign ventures will not go to India to make $1 tax free if it can go to Germany and earn $3 on the same investment on which it will pay a 50-percent tax. Furthermore, the question remains to be answered by this bill, will the type of investment needed go to the areas where it is needed?

(3) It has been said that businessmen make good ambassadors. This is perhaps true. However, we have in the past had a good bit of difficulty in our foreign relations due to business activity abroad. More recently there have been reports of difficulties in Geneva and other cities toward which businessmen are flocking because of their tax haven characteristics. Reports of friction between American businessmen and their families and the indigenous population over housing and other matters have become more prominent.

There are a great many items in this bill which have been questioned by various individuals and groups and, in my opinion, these items have not been given sufficient study, certainly not by the Finance Committee.

(1) The 10-percent restriction. As you know, the bill provides that the tax advantages accruing under it shall not be available to foreign companies which ship back into the United States more than 10 percent of their production. I am not prepared to say at the present time whether this restriction is good or bad. I do say that we must not unduly encourage investment in foreign manufacturing companies which will ship goods back into the United States to compete in our own markets, but if this 10-percent restriction is proper in principle, then it should be applied to all foreign subsidiaries already getting the tax concessions being offered by this bill.

(2) The bill provides for a beginning toward worldwide fair labor standards. The State Department feels this provision may prove harmful. Here again, I am not prepared at this time to say what should be done in this regard. It does appear to me that this provision will be difficult to enforce, but if it should be enforced, it should be enforced with respect to all U.S.-owned foreign operations and not just those companies set up under the provisions of this bill.

(3) This bill goes to great lengths to accommodate banks but it specifically excludes life insurance companies from its provisions. Just why this should be, I do not know. The Ways and Means Committee report states that there are some difficulties in the life insurance field and that it will take some time to work these problems out. I am not sure that we need to be in such a hurry that a great many problems connected with this legislation cannot be studied further.

(4) This bill provides for furnishing certain information to the Treasury Department. Here again, we certainly are in need of information concerning the activities of American interests abroad. The information section in this bill is rather incomplete. I was successful in getting two amendments adopted in this area to the bill, H.R. 10087, when it was before the Senate, but this bill has not yet been acted on by the conference committee. Objections have been expressed to requiring these foreign operators to make reports.

I would ask those who support this bill whether the meager reporting requirements set up in this bill are in there because the supporters of this measure presuppose that tax avoidance is the principal purpose for the existence of the foreign corporation, as has been charged.

(5) Some have objected to the gross-up provisions for foreign business corporations contained in this bill. Here again, if we are to recognize the gross-up principle and if we are enacting this legislation to give branch operations the same tax advantages now enjoyed by subsidiaries, should we not apply the gross-up principle to all subsidiaries? I offered an amendment earlier this year to accomplish such a purpose but it was defeated on the floor of the Senate.

This bill will benefit one or two large banks and a few companies which wish to take advantage of its provisions for reorganization without taxation. In my view, the bill will not further to any appreciable degree the public interest.

What is needed, Mr. Chairman, is a thoroughgoing revision of our foreign tax laws. I see no emergency which requires the passage of this particular bill at this time.

Senator KERR. Mr. Biemiller? Do you have his statement?

Senator GORE. No; it is on the way up here. I ask unanimous consent that it be inserted in the record.

Senator KERR. It will be inserted in the record and made a part of the record.

(The document referred to follows:)

STATEMENT OF ANDREW J. BIEMILLER, DIRECTOR OF LEGISLATION, AFL-CIO, ON H.R. 5

In the judgment of the AFL-CIO, any tax incentives for U.S. investment overseas at this time should be restricted exclusively (1) to the less-developed areas and (2) to operations in those countries which abide by fair labor standards. The AFL-CIO supports H.R. 5 in its present form because it encourages such proper channeling of U.S. investments abroad.

As it stood originally, H.R. 5 provided merely for a tax deferral for a foreign business corporation, until the corporation's earnings were returned to the United States. This provision, therefore, would have been applicable to any U.S. corporation, which operates through a foreign business corporation anywhere in the world. It would have encouraged an improper channeling of foreign investment.

Amendments to H.R. 5, which were added after it was originally reported, however, include a restriction of the tax deferral to those foreign business corporations which operate in less-developed countries, a further restriction of the tax deferral to those corporations whose operations in the less-developed countries abide by the fair labor standards of the particular country, and a final restriction which prevents tax deferral from applying to any foreign business corporation in a less-developed country if the corporation earns more than 10 percent of its income from sales in the United States.

The latter restriction is of special importance, since American industry and American workers are constantly confronted by problems caused by the establishment of corporations and plants overseas to make products identical or closely similar to those produced in the United States for export back to the United States.

AFL-CIO support for encouraging foreign investment is not to be interpreted as a desire to ignore or add to these problems of competition in the United States from products produced by oversea establishments of U.S. corporations. The AFL-CIO, therefore, views the provision in H.R. 5 which denies tax deferral to the foreign business corporation which receives more than 10 percent of its income from sales in the United States as essential.

In fact, it would be appropriate for this committee to extend this principle to other types of American business, as well, such as the foreign subsidiary operating overseas.

AFL-CIO opposition to unrestricted encouragement of investment overseas is based on the fact that American investments in many highly developed nations of the world are already great. There is no need for further encouragement or tax incentives for such investments.

It is our conviction that American firms do not need further tax incentives to invest in countries in the Common Market area, the Outer Seven countries, or other highly industrialized nations. The countries that are most in need of American capital are the less-developed nations, to which the flow of American investment has been in too small quantities.

It would be particularly inappropriate, therefore, to extend the Western Hemisphere preference clause to companies operating in other parts of the world. The AFL-CIO, in fact, questions the advisability of even retaining the Western Hemisphere preference clause in our present laws.

American investment can be of great importance in some less-developed areas. Further tax incentives are appropriate to encourage American investment in those areas. At the same time, incentives are needed to see to it that American investments in the less-developed countries help to promote viable economies by fostering fair labor standards appropriate for those nations. In addition, the incentives should not be to encourage investment in those nations for the purpose of shipping the firm's output back to the United States and creating or adding to problems at home.

For these reasons, the AFL-CIO supports H.R. 5 in its present form. This bill, with its present limitations and restrictions on the incentives granted to investors in foreign nations, includes about as much encouragement as is appropriate at this time for investment overseas.

We urge this committee, if it decides to report our H.R. 5, to retain the bill's important limitations and restrictions on tax incentives, because they are necessary for the proper channeling of investment. Restricting tax incentives to those companies investing in less-developed countries will encourage the flow of capital to those areas where it is most needed. Limiting tax deferral for investments in those areas to those companies which do not receive more than 10 percent of their income from sales to the United States encourages beneficial rather than harmful investments. Requiring foreign business corporations to abide by the fair labor standards provisions of the countries in which they invest will help encourage the healthy development of other economies.

The concept of denying the privilege of tax deferral to foreign business corporations which receive more than 10 percent of their income from the sale of products in the United States should be extended to all types of operations through which a U.S. company may operate overseas.

Under present law, if a U.S. corporation operates overseas through a domestic subsidiary or branch, it is subject to the regular 52-percent corporate tax rate, whether it retains its earnings in the United States or reinvests them overseas. If the U.S. corporation creates a foreign subsidiary, that subsidiary's income is deferred from taxes until such income is returned to the United States. H.R. 5, in its present form, would extend the privilege of tax deferral to a foreign business corporation, with the important proviso that the corporation shall be denied this privilege if it receives more than 10 percent of its total gross revenue from the sale of its products in the United States.

Regardless of how a corporation operates overseas—whether as a domestic subsidiary, a foreign subsidiary, or a foreign business corporation—if it returns products for sale to the United States which it produces now or formerly produced in the United States, and receives more than 10 percent of its income from the sale of such items in the United States, such a company should not be eligible for tax deferral and should be subject to the regular U.S. corporate tax rate. New legislation should be considered to extend the 10-percent limitation to all American corporations operating overseas.

Senator KERR. Are there any questions or statements by any members of the committee?

Senator GORE. I would like to have the staff request the Treasury to give us a letter, either expressing approval or disapproval, support or opposition to the bill, and to identify the beneficiaries.

They estimate that it will produce possibly, be a loss of possibly $50 million a year to the Treasury, and I would like to know who is to be the beneficiary of this tax reduction.

Senator KERR. Do we have a statement in the record from the Treasury?

Is there a representative from the Treasury here?

The Treasury has given the committee its statement on this question; has it?

Mr. BUFFINGTON. We have reported on the bill to the Finance Committee, and there is a revenue figure of from $30 to $40 million a year in the report.

Senator ANDERSON. How do you stand on it? Are you for or against it?

Mr. BUFFINGTON. The report did not, I believe, object to the enactment.

Senator ANDERSON. That was not the question. Are you for it or against it?

Mr. BUFFINGTON. I think the Treasury Department would not object to its enactment.

Senator ANDERSON. I know. I understood that one, but are you for it or against it?

Mr. BUFFINGTON. I think the Treasury Department is for it.

However, I can't speak for the Department, as I am not a policy-making official.

Senator GORE. The letter of your boss didn't say so. You say you think so. Will you bring a letter to the committee defining definitely whether the Treasury supports or opposes this bill?

Mr. BUFFINGTON. I will ask them to do that.

Senator CURTIS. Mr. Chairman?

Senator KERR. The Senator from Nebraska.

Senator CURTIS. I am the least qualified person in Washington to speak for the Bureau or the Department, but my experience has been when they say they do not object to legislation that they favor it. In other words, if I have a bill pending, and they say they have no objection to it, I rather rejoice. It is when they send in two or three pages of objections, sometimes they are good and sometimes I disagree with them. So I think the answer we have got is probably the usual and customary procedure in legislation.

Senator GORE. Well, Senator Curtis——

Senator CURTIS. I am not going to question any other Senator if they ask questions of the Treasury Department.

Senator GORE. I want to point out that the letter to the chairman of the committee from the Assistant Secretary of the Treasury does not say that the Treasury does not object.

Senator CURTIS. I see. Then I think you are very right in ascertaining what the position is.

Senator GORE. Here are more than three full pages and he never gets around to saying that he does object.

Senator KERR. I believe if he will refer to the next to the last paragraph it reads:

> We would like to call your attention to another provision of H.R. 5 which the Department has opposed as being difficult, if not impossible, to administer effectively.

And then outlines what it is.

The last paragraph it is stated:

> During the course of consideration of H.R. 5 by your committee, it is anticipated that further study will be given to the labor standard and import provisions as well as to certain technical problems which exist in the amended bill. In this connection, the Treasury Department will be happy to cooperate with the committee and its staff.

Would you advise your Department that members of the committee would appreciate a communication from them giving the committee the specific recommendations of the Treasury at this time as to the enactment, amendment or not enacting of the bill?

Mr. BUFFINGTON. Yes, sir.

OFFICE OF THE SECRETARY OF THE TREASURY,
Washington, August 26, 1960.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance, U.S. Senate, 2227 New Senate Office Building, Washington, D.C.

MY DEAR MR. CHAIRMAN: During the course of the public hearings held before the Committee on Finance on H.R. 5 on August 23, 1960, Senator Gore asked for a clarification of the Treasury Department's position on H.R. 5 as it passed the House.

As you know, H.R. 5 as originally introduced would have permitted a domestic corporation qualifying as a "foreign business corporation" under the bill to postpone payment of its U.S. tax on income derived from abroad until such time as the earnings are "distributed." In the interests of fiscal soundness, the Treasury Department opposed enactment of this legislation which would have provided tax benefits to encourage foreign investment throughout the world, including the more industrialized countries. The Department recommended instead that H.R. 5 should be limited in its application to profits derived from the underdeveloped countries of the free world. As the bill passed the House the operation of tax deferral was limited in accordance with the recommendation of the administration to income from sources within countries designated by the President as economically underdeveloped.

In my letter to you of June 13 with respect to H.R. 5, I pointed out that the administration has urged that further steps be taken to encourage private investment in the less developed areas abroad. I also called attention to the fact that the President in his budget message this year recommended that the U.S. tax on income earned in less developed areas should be deferred until repatriated. Accordingly, the provisions of H.R. 5 which limit the deferral privilege to profits derived in the underdeveloped countries of the free world are in accord with the recommendation of the President.

In my letter of June 13, I also indicated the Department's concern about the serious administrative problems that might well be created by the labor standards and import restrictions included in the bill. The Department has urged that these provisions (secs. 951(f) and 951(a)(3)) be deleted from the bill. It is my understanding that the Finance Committee has tentatively agreed to the removal from the bill of the provision which makes ineligible for tax deferral a corporation which fails to meet the minimum labor standards of the country in which it operates.

With the removal of this provision, then, although objecting to the provision dealing with imports, the Department would nevertheless support H.R. 5 if it should be approved without further change by the Senate Finance Committee.

Senator Gore also asked for information concerning taxpayers who might be expected to utilize the provisions of H.R. 5. The bill requires investment abroad in the form of an active trade or business and does not extend tax deferral to portfolio investments. The bill also contains a limitation upon the amount of export income which may qualify for tax deferral. Thus, the benefits of the bill would, in general, be limited to taxpayers who have or contemplate investments in the less developed countries through domestic corporations which meet the many requirements of the bill. Because of the risks involved and the capital needed, taxpayers having direct investments in these less developed areas tend to be the larger U.S. corporations. While the law does not permit the Department to make public financial data concerning named corporations, we could, if requested, supply such information to the Finance Committee in executive session.

Sincerely yours,

(Signed) JAY W. GLASMANN,
Assistant to the Secretary.

Senator KERR. Any further questions?

Senator GORE. And identification, insofar as the Treasury can give it, of the principal beneficiaries of the tax reduction which is estimated on the last page of the letter at from $30 to $40 million annually.

Senator KERR. To the extent that that information would be appropriate in connection with the responsibilities of the Treasury.

Are there further questions?

Senator ANDERSON. I was going to say in answer to what Senator Curtis said a while ago that I asked for a few reports, and I read him this language from the first one that is handed me:

> The Treasury Department in the report being made to your committee on this bill shows that the arguments made in favor of the proposed legislation are not valid, and points out that the enactment of the bill would discriminate against some manufacturers. The Bureau of the Budget concurs in the views contained in the Treasury report and opposes the enactment of S. 2344.

That is specific.

Senator CURTIS. I was merely commenting to the point if they state in a report that if they have no objections to legislation that my observation has been that that is pretty good news, that they are for it.

Senator ANDERSON. Could we have a comment from the representative of the Treasury who spoke a minute ago? This is the letter of June 13, 1960. Nowhere in it does the Treasury say it has no objection to the bill. By what authority do you testify?

Mr. BUFFINGTON. I think that is another bill; isn't it?

Senator ANDERSON. H.R. 5 is the bill I am talking about, this letter of June 13, 1960. This is written by Jay W. Glasmann, assistant to the Secretary.

Senator KERR. What bill though did——

Senator ANDERSON. H.R. 5.

Senator KERR. I thought the reference the Senator made there—he made some reference to the Senate bill.

Senator ANDERSON. I read some language—that the language of the Treasury Department doesn't say it opposes it or favors it, if it favors it. But I understood the Treasury report to read "perhaps," it is uncertain.

You have testified the Treasury has no objection to the bill.

Senator KERR. He said he thought the Treasury had no objection.

Senator ANDERSON. Mr. Reporter, you read back what he said. May I have your name, please, for the record?

Mr. BUFFINGTON. G. N. Buffington.

Senator ANDERSON. Did you say the Treasury had no objection?

Mr. BUFFINGTON. First, I said the report, as I recall our report to the Finance Committee, did not take a position on the bill, did not say that the Treasury favored the bill.

I can't say anything different from what was contained in the report. I might repeat that I am not a policy official for the Department. I am attending these hearings as an observer.

Senator ANDERSON. Could we go back and see when he was asked what the position of Treasury was and read me what he said. I may have misunderstood.

(The question was read by the reporter, as requested.)

Senator ANDERSON. In view of the letter from the Treasury Department what is your basis that the Treasury is for it?

Senator KERR. It may be, Senator, in the bottom paragraph of page 2:

> As you know, the administration had urged that further steps be taken to encourage private investment in the less developed areas abroad. In his budget message this year, the President recommended as an additional incentive that the U.S. tax on income earned in the less developed areas should be deferred until repatriated. Since the bill is now limited in its application to profits derived in the underdeveloped countries of the free world, it is, in this respect, in accord with the recommendation of the President.

Senator ANDERSON. In this respect. Then it goes on for another page and a half to say in other respects it is not so hot. What are we to conclude?

Mr. BUFFINGTON. I base my thought that the Treasury would not oppose it on, first our report to the Ways and Means Committee, which stated that we would not object to it, and also on a recollection of

Mr. Glasmann's testimony before the Ways and Means Committee on the "gross-up" bill and his response to Mr. Boggs who asked a question concerning the Treasury position on this bill if the amendments were made by the Ways and Means Committee, and as I recall it, Mr. Glasmann's response was the bill was in satisfactory form to the Department.

Senator ANDERSON. Now this letter is written after the Ways and Means Committee acted. If Mr. Glasmann thought it was in satisfactory form, there was nothing to prevent him from saying so, was there?

Mr. BUFFINGTON. No, sir.

Senator ANDERSON. Thank you.

Senator GORE. Well, here is a letter I find in the hearings held on the bill by this committee, from Mr. William Macomber, Jr., Assistant Secretary of State, in which he recommends major changes in the bill before its enactment.

So at least the State Department does not favor it in its present form.

Mr. BUFFINGTON. I believe they object to one feature of the bill.

Senator KERR. I don't believe this witness represents the State Department.

Senator GORE. I don't believe he does. That was addressed to the chairman.

Mr. BUFFINGTON. I think the State Department's objection is to one feature of the bill, the import limitation.

Senator KERR. Are there further questions, or statements?

If not, the committee will stand in recess subject to the call of the Chair.

(Whereupon, at 10:35 a.m. the hearing was recessed, subject to the call of the Chair.)

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