3.20 *Extraterritoriality—Balance of Payments Regulations* In the face of a continuing balance of payments deficit in the early 1960's, the United States sent voluntary guidelines to parent United States firms suggesting reductions in capital outflows and investments abroad. This was discussed in detail in Section 2.03 above. The guidelines were interpreted as being applicable to Canadian subsidiaries of United States firms (as well as to subsidiaries in other countries). Canadian objections to the United States guidelines led to a statement issued by the Canada-United States Joint Committee on Trade and Economic Affairs which appeared to exempt Canada from the effect of the guidelines although no formal exemption was made. The Canadian Government attempted to countervail the effect of the United States guidelines by sending out guiding principles or "counter guidelines" reminding Canadian subsidiaries of American companies what was expected of them as good corporate citizens of Canada.

In 1968 when the United States guidelines became mandatory, Canada was faced with serious foreign exchange difficulties as United States firms repatriated capital and subsidiary company earnings from Canada. Although the Canadian government was subsequently able to negotiate major exemptions to the United States regulations on terms economically satisfactory to both parties, the remaining exemptions, administrative in character, in no wise refute the underlying United States assumption that Canadian subsidiaries controlled by United States firms are within the purview of United States policy making.

In principle, it seems difficult to object to United States regulations limiting investments in Canadian companies or requiring the repayment of loans repayable on demand by Canadian companies to American parent companies. This would not be going as far as many countries have gone since the war under foreign exchange control regulations. However, Canada is on sounder ground in objecting to United States regulations which require Canadian subsidiaries of American parent companies to declare dividends to American parent companies, whether or not this is in the interests of the Canadian subsidiaries, or which regulate in any way how Canadian subsidiaries invest their funds. In accordance with sound principles, it seems entirely clear that operations of Canadian subsidiaries should not be subject to United States laws or regulations.

The Committee believes that while the Canadian government should negotiate in good faith with the United States government to end the extraterritorial application of American laws to Canada, it must proceed unilaterally to enact legislation which will countervail the effect of the United States laws. The problem is to design such countervailing legislation so that it will be scrupulously fair to the American government and to American corporations and individuals who have in good faith made investments in Canada while at the same time effectively terminating the extraterritorial application of United States laws to Canada. The Committee's suggestions on this point are summarized in Section 3.37 below.

3.21 *Action Taken by Other Industrial Countries to Regulate Foreign Ownership—France* In determining what action should be taken in Canada to regulate foreign ownership, it is relevant to consider what action has been taken in other countries. The following information has been summarized from the Watkins Report.