This problem was carefully examined in 1965 in the Merchant-Heeney Report. It recommended that the United States should clearly exempt American controlled subsidiaries in Canada from the effect of American legislation. This is obviously the ideal solution to the problem. However negotiations between the two countries have so far not produced any action of this sort although it is the Committee's impression that serious negotiations have not actually been undertaken. Rather, when Canada has suffered from the results of the extraterritorial application of United States laws, it has tended to ask for specific exemptions and while these are usually granted, this is not an appropriate solution from Canada's point of view. As was stated in the Watkin's Report:

> "It is necessary, if Canada's sovereignty is not to be eroded and its national independence diminished, that positive steps be taken to block the intrusion into Canada of the United States law and policy applicable to American-owned subsidiaries".

The three important areas where American laws apply to Canada are control of exports, anti-trust laws and policy, and balance of payments policy.

3.18 *Extraterritoriality—Control of Exports* The United States has a number of laws and regulations which control trade with Communist countries. These laws reflect American foreign policy objectives including those relating to national security. In general terms, these laws prohibit the export of goods containing American components or technical data to Communist countries, and this prohibition extends to exports from Canada and other countries, by affiliates or subsidiaries of American firms. Canadian law however, permits trade with Communist countries except for certain strategic goods.

An obvious conflict of interest for Canadian-based subsidiaries and their directors and officers results when the American parent firm under threat of legal action seeks to impose these United States restrictions on the Canadian subsidiary. In July 1958 a joint statement on export policy issued by Prime Minister Diefenbaker and President Eisenhower recognized this conflict and called for full consultation between the two governments with a view to finding appropriate solutions to concrete problems as they arise. Specific exemptions have subsequently been made by the United States on a case to case basis; but this seems unsatisfactory from the Canadian point of view because the Canadian authorities, by asking for exemptions, are put in the positon of accepting the principle of extraterritoriality.

Clearly it is impossible to judge how many export orders might have been filled had there not been the awareness by the Canadian subsidiary that is would run counter to United States laws operating on a parent company and its officers and directors. There is a further complication: Canadian owned companies with large export markets in the United States may decide for purely commercial reasons to refrain from dealing with certain Communist countries at times when United States public opinion is inflamed, as it was at one time over China, for fear of jeopardizing their access to the United States market.

3.19 *Extraterritoriality—Anti-Trust Regulations* Here, the basic problem is that the United States government acts on the principle that it has jurisdiction over subsidiaries of American corporations even though they may be operating