

A separate and distinct limit should be placed upon guarantees (which require no appropriation whatsoever at the outset). It would be very wrong, indeed, to set up a reserve even of five per cent (\$340,000,000; out of the funds appropriated in order to meet future possible liabilities which might never accrue (like trying to appropriate for future court of claims decisions which no one can estimate. It is never done). Why immobilize capital which ought to be actively at work in Europe.

Between the broad lines of undertaking by participating countries, here are vast areas in which industry and trade can and should operate. The revival of industry in the ways of life, characteristic of free enterprise among free people, is one of the main objectives of the whole European recovery programme.

V. Tax adjustments in Internal Revenue Code: Although the subject is too complex for complete analysis here, further protection and inducements to American investors can and should be given by a provision of the Economic Cooperation Bill amending the Internal Revenue Code to a) make clear that investments in European plants would be permitted out of surplus not only for the purpose of extending the present business operations, but also to go into new and additional business enterprises, which, under the present regulation, might not be deemed to be "reasonably required by the business"; (22) b) to permit business losses, to which government guarantees would not extend, to have carry-forward or carry-back advantages: and c) to allow amortization in lieu of depreciation as in the case of war plants.

VI. Other conditions which can be reasonably imposed upon participating countries: There is now being completed at Havana, Cuba, the final draft of the charter for the International Trade Organization, hereinafter called "ITO." This charter might be roughly described as an international code of fair practice in recognition of economic mutual interdependence, just as the United States in the proposed draft of legislation recognizes the "interdependence of the United States and of Europe." A principal obstacle to American business in Europe, and a basic element of the conflict between Germany and the United States, was the cartel system whereby trade was monopolized, controlled and saddled with restrictions on competitive production of vital materials, which at the outset had a throttling effect upon the American war effort. (23)

Chapter 5 of the proposed ITO charter provides that each participating country will take appropriate action to prevent practices which restrain competition, limit access to markets, or foster monopoly, and that complaints may be made to the ITO and steps taken to remedy the evils complained of.

(22) See discussion, supra, Section III "1", and footnotes re Section 102 of Internal Revenue Code, and pertinent regulations.

(23) As in the case of tungsten carbide, magnesium, military optical instruments and many other materials. See "The German Invasion of American business," an address by the writer, when he was Assistant Attorney General of the United States, before the Indiana Bar Association, January 1941.