

*For Investment*MEMORANDUM

February 11, 1949

To: The Commission

From: *W.C.L.* Walter C. Louchheim, Jr., Adviser on Foreign Investment

Subject: Financial clauses of treaties on economic development.

The State Department has been negotiating with a number of countries for the adoption of conventions of establishment and economic development. These treaties include, among their statement of purposes, the encouragement of mutually beneficial investments and the establishment of standards to govern the treatment of the nationals of the signatory countries.

There are included among the articles of the draft conventions now under discussion several financial clauses. The discussion and presentation of these clauses has been referred to a joint group of the Foreign Investment Policy and National Advisory Council Staff Committees. The articles which have been given consideration by this group are:

1. Article XIII - Withdrawal of earnings. This article defines the rights of investors to withdraw earnings and to transfer capital, and prescribes the rate of exchange to be available for such withdrawals.

2. Article XIV - Uniform accounting. This article (which was originally put forward by the Commission representative) in general follows the similar provision of the Bogota Agreement with respect to the establishment of uniform principles of corporate accounting and of standards of fair disclosure to private investors.

3. Article V - Activities of persons and companies. Section 3 provides as follows:

"Nationals and companies of either Party shall be permitted to employ, within the territories of the other Party, technical experts, executive personnel, attorneys, agents and other employees of their choice, regardless of nationality."

The Commission representatives have suggested that the phrase "public accountants" be inserted between the words "attorneys" and "agents." The group's attention has been called particularly to the situation in Cuba as to which the Commission has on several occasions notified the State Department. As one of the first treaty negotiations is with Cuba, it would seem particularly important that non-discriminatory treatment

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Authority NND 29548
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of accountants be explicitly provided for in these conventions. I have discussed this with Earle King, the Chief Accountant, and Andrew Barr, the Assistant Chief Accountant, and the latter has attended a meeting of the inter-departmental group at which this position has been set forth. The position taken by the Commission's representatives is generally that it would seem advisable that treaties on economic development for "encouraging mutually beneficial investments" should provide that U. S. investors enjoy the right to employ accountants of their own choice in their foreign investments.

It is urged in opposition to the inclusion of such a provision that some state laws in the United States discriminate against foreign accountants, and therefore, this government is not prepared to grant reciprocal treatment. We are discussing this problem with Roger Feater, the General Counsel, and hope to prepare a draft of an article for presentation at a subsequent meeting of the inter-departmental group which will be acceptable.

cc Mr. Barr