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will be considered manufactured or produced in the United States will depend on the facts and circumstances of each case. As a general rule, if—

(1) The property sold, serviced, used, or rented by the controlled foreign corporation is substantially transformed in the United States prior to its export from the United States, or

(2) The operations conducted in the United States with respect to the property sold, serviced, used, or rented by the controlled foreign corporation, whether performed in the United States by one person or a series of persons in a chain of distribution, are substantial in nature and are generally considered to constitute the manufacture or production of property,

then the property sold, serviced, used, or rented will be considered to have been manufactured or produced in the United States. The rules under paragraph (a)(4)(ii) of §1.954–3, relating to the substantial transformation of property, and paragraph (a)(4)(iii) of such section, dealing with a substantive test for determining whether property will be treated as having been manufactured or produced, shall apply for purposes of making determinations under this paragraph.

(f) *Unrelated person.* For purposes of sections 970 through 972 and §§1.970–1 to 1.972–1, inclusive, the term ''unrelated person'' means a person other than a related person as defined in section 954(d)(3) and paragraph (e) of §1.954–1.

[T.D. 6755, 29 FR 12710, Sept. 9, 1964, as amended by T.D. 7293, 38 FR 32802, Nov. 28, 1973; T.D. 7533, 43 FR 6603, Feb. 15, 1978]

§1.972–1 Consolidation of group of export trade corporations.

(a) *Election to consolidate*—(1) *In general.* One or more United States shareholders (as defined in section 951(b)) owning (within the meaning of section 958(a)) or who are considered as owning by applying the rules of ownership of section 958(b) more than 50 percent of the total combined voting power of all classes of stock entitled to vote of an export trade corporation, which is the top-tier corporation in a chain (within the meaning of subparagraph (2) of this paragraph) of export trade corporations, may, subject to the provisions of this section, elect to consolidate such chain for purposes of determining—

(i) The limitations, described in section 970(a) and paragraph (b)(2) of §1.970–1, on the amount by which subpart F income of an export trade corporation in such chain shall be reduced as provided in section 970(a) and paragraph (b)(1) of §1.970–1, and

(ii) The amount includible in gross income of such shareholders under section 951(a)(1)(A)(ii) with respect to such a corporation's decrease in investments in export trade assets to which section 970(b) applies as described in paragraph (c) of §1.970–1.

(2) ''*Chain*'' *defined.* A chain of export trade corporations shall include—

(i) The top-tier export trade corporation referred to in subparagraph (1) of this paragraph which is the first export trade corporation in a chain of ownership described in section 958(a);

(ii) All export trade corporations 80 percent or more of the total combined voting power of all classes of stock entitled to vote of which is owned directly by such top-tier export trade corporation on the last day of its taxable year; and

(iii) All export trade corporations 80 percent or more of the total combined voting power of all classes of stock entitled to vote of which is owned directly by the export trade corporations described in subdivision (ii) of this subparagraph on the last day of the taxable year of the export trade corporation described in subdivision (i) of this subparagraph.

For purposes of this section, a reference to a top-tier corporation shall mean an export trade corporation described in subdivision (i) of this subparagraph, a reference to a second-tier corporation shall mean an export trade corporation described in subdivision (ii) of this subparagraph, and a reference to a third-tier corporation shall mean an export trade corporation described in subdivision (iii) of this subparagraph.

(3) *Inclusion requirement.* If an election is made by a United States shareholder under this paragraph with respect to a chain of export trade corporations (as defined in subparagraph (2) of this paragraph), all export trade corporations which are included in the

chain must be included in the consolidation. If such an election is made, the determinations under section 970 shall be made on a consolidated basis with respect to the entire interest which the electing United States shareholder owns in each of the export trade corporations in the chain, including any minority interests owned directly or indirectly by such shareholder in second-tier and third-tier corporations in the chain. A United States shareholder may elect to consolidate his interest in export trade corporations in one chain of such corporations without electing to consolidate his interest in export trade corporations in other chains.

(4) *Conditions for making initial election*—(i) *Without consent.* The initial election to consolidate a chain of export trade corporations may be made without the consent of the Commissioner only if, immediately before the election to consolidate, each of the export trade corporations to be included in the consolidation is using the same taxable year and has the same elections under section 970(c)(4) and §1.970–2 in force, or not in force, as the case may be. The election shall be made by the electing shareholder or shareholders with respect to the taxable year in which or with which ends the first taxable year of the top-tier corporation to which the election to consolidate applies and at the time of filing such shareholders' returns for such taxable year or within 90 days after final regulations under this section are published in the FEDERAL REGISTER, whichever date occurs later. Each United States shareholder making such an election shall attach to his return a statement showing:

(*a*) The name, address, and taxable year of each export trade corporation in the chain of such corporations for which an election is made,

(*b*) The amount and percentage of each class of stock owned by such shareholder (within the meaning of section 958), corporation by corporation, in each of such export trade corporations, and

(*c*) A list of the names and addresses, and a description of the ownership interests, of all other United States shareholders, if any, who are making the same election to consolidate and a statement that such shareholders are also making the election.

(ii) *With consent.* If, immediately before the election to consolidate, each of the export trade corporations in a chain of such corporations does not use the same taxable year or does not have the same elections under section 970(c)(4) and §1.970–2 in force, or not in force, as the case may be, the initial election to consolidate such chain may be exercised by the electing shareholder or shareholders only with the consent of the Commissioner. Consent will not be granted unless each electing United States shareholder and the Commissioner agree to the terms, conditions, and adjustments under which such consolidation is to be effected and unless, subject to such terms, conditions, and adjustments as the Commissioner may prescribe, each of the export trade corporations in the chain adopts a common taxable year and has the same elections under section 970(c)(4) and §1.970–2 in force, or not in force, as the case may be. The application for consent to consolidate shall be made by mailing a letter, signed by each of the electing United States shareholders, to the Commissioner of Internal Revenue, Washington, DC 20224. The application shall be mailed before the close of the first taxable year of the top-tier corporation with respect to which the electing shareholder or shareholders desire to make a consolidation or before the close of the 90th day after final regulations under this section are published in the FEDERAL REGISTER, whichever date occurs later, and shall include the statement described in subdivision (i) of this subparagraph.

(5) *Effect of election.* If an election to consolidate a chain of export trade corporations is made for a taxable year of a United States shareholder, such election shall, except as provided in subparagraph (6) of this paragraph, be binding on such shareholder for such taxable year and for all succeeding taxable years. If, in a subsequent taxable year of the United States shareholder, an export trade corporation for the first time qualifies as a second-tier or third-tier corporation in such chain on the last day of the taxable year of the top-tier corporation which ends in or

with the subsequent taxable year of such shareholder, the shareholder's interest in such export trade corporation shall be included in the consolidation to which the election applies, but only if such export trade corporation as of such last day uses the same taxable year and has the same elections under section 970(c)(4) and §1.970–2 in force, or not in force, as the case may be, as such top-tier corporation. The United States shareholder shall, with respect to such additional export trade corporation, submit with his return for such subsequent taxable year the statement described in subparagraph (4)(i) of this paragraph.

(6) *Termination of election.* An election under this paragraph to consolidate a chain of export trade corporations shall terminate for the first taxable year of the foreign corporation which during the period of consolidation is a top-tier corporation—

(i) At the close of which any foreign corporation which was included in such consolidation for the preceding taxable year ceases to qualify as an export trade corporation or to be eligible under this paragraph for inclusion in such chain,

(ii) At the close of which an export trade corporation for the first time qualifies as a second-tier or third-tier corporation in such chain but does not as of such close of the year use the same taxable year or have the same elections under section 970(c)(4) and §1.970–2 in force, or not in force, as the case may be, as such top-tier corporation, or

(iii)(*a*) In respect of which the Commissioner, upon application made by a United States shareholder who made the election to consolidate, or his successor in interest, consents to a termination of the election. Approval will not be granted unless the United States shareholder and the Commissioner agree to the terms, conditions, and adjustments under which the termination will be effected.

(*b*) The application for consent to termination shall be made by the United States shareholder's mailing a letter for such purpose to the Commissioner of Internal Revenue, Washington, DC 20224. The application shall be mailed before the close of the taxable year of the foreign corporations with respect to which the shareholder desires to terminate the consolidation and shall include the following information:

(*1*) The name, address, and taxable year of each export trade corporation in the chain of such corporations for which the election was made,

(*2*) The amount and percentage of each class of stock owned by such shareholder (within the meaning of section 958), corporation by corporation, in each of such export trade corporations, and

(*3*) A list of the names and addresses, and a description of the ownership interests, of all other United States shareholders, if any, who participated in making the election with such United States shareholder, or their successors in interest, and a statement whether such other persons are or are not terminating the election.

(7) *Election subsequent to initial election.* If a United States shareholder elects under subparagraph (4) of this paragraph to consolidate his interest in a chain of export trade corporations and the election to consolidate such corporations terminates under the provisions of subparagraph (6) of this paragraph, such shareholder may not thereafter elect under this section to consolidate his interest in any corporation which was in that chain of export trade corporations unless he receives the consent of the Commissioner to do so. Application to obtain such consent of the Commissioner shall be made by a letter mailed to the Commissioner of Internal Revenue, Washington, DC, 20224, before the close of the first taxable year of the top-tier corporation of the chain of export trade corporations in which the election to include such interest is to apply. Such application for consent shall include a statement showing:

(i) With respect to such chain, the information required to be shown in the statement described in subparagraph (4)(i) of this paragraph, and

(ii) The United States shareholder's interest in such chain which was previously included in a consolidation, the taxable years of such previous consolidation, and the manner in which such previous consolidation was terminated.

(8) *Illustration.* The application of this paragraph may be illustrated by the following example:

Example. Domestic corporation M owns 60 percent of the only class of stock of foreign corporation A, and 100 percent of the only class of stock of foreign corporation F, respectively. Corporation A owns 80 percent of the only class of stock of foreign corporations B and C, respectively. Corporation M also owns 20 percent of the stock of B Corporation. Corporation B owns 80 percent of the only class of stock of foreign corporation D. Corporations B and C each own 50 percent of the only class of stock of foreign corporation E. Corporation F owns 100 percent of the only class of stock of foreign corporation G, which owns 100 percent of the only class of stock of foreign corporation H. Corporation F also owns 20 percent of the stock of C Corporation. Domestic corporations N and R own 30 percent and 10 percent, respectively, of the stock of A Corporation. All corporations use the calendar year as a taxable year, and all foreign corporations qualify as export trade corporations for 1963. Corporation M may elect for 1963 to consolidate its interest in the chain (the ''A'' chain) of export trade corporations which includes corporations A, B, C, D, and E; and Corporation M need not, but may, elect to consolidate its interest in the chain (the ''F'' chain) of export trade corporations which includes corporations F, G, and H. Consolidation of M Corporation's interest in the ''A'' chain with its interest in the ''F'' chain is not permitted. If M Corporation elects to consolidate the ''A'' chain, M Corporation must include in the consolidation its 20 percent directly owned interest in B Corporation and its 20 percent indirectly owned (through F Corporation) interest in C Corporation. Either N Corporation or R Corporation, or both, may join M Corporation in electing to consolidate their interests in the ''A'' chain. However, neither N Corporation nor R Corporation may elect to consolidate the ''A'' chain unless M Corporation also agrees to so elect, because corporations N and R, neither jointly nor separately, own more than 50 percent of the total combined voting power of all classes of stock entitled to vote of A Corporation. If corporations M, N, and R elect to consolidate the ''A'' chain, the determinations specified in subparagraph (1) of this paragraph will be made on a consolidated basis with respect to such corporations' respective interest in the chain as shown in the following tabulation:

	A %	B %	C %	D %	E %
M Corporation's interest:					
Direct interest	60				
(60% × 80%) + 20% direct interest		68			
(60% × 80%) + 20% indirect interest			68		
(68% × 80%)				54.4	
(68% × 50%) + (68% × 50%)					68
N Corporation's interest:					
Direct interest	30				
(30% × 80%)		24			
(30% × 80%)			24		
(24% × 80%)				19.2	
(24% × 50%) + (24% × 50%)					24
R Corporation's interest:					
Direct interest	10				
(10% × 80%)		8			
(10% × 80%)			8		
(8% × 80%)				6.4	
(8% × 50%) + (8% × 50%)					8
Total interests to which consolidation applies	100	100	100	80	100

(b) *Effect of consolidation*—(1) *Determination of subpart F income, export trade income, etc.* An election under paragraph (a) of this section to consolidate export trade corporations in a chain of such corporations shall have no effect on the determination of the character of income as subpart F income or on the determination of export trade income, export trade income which constitutes foreign base company income, or earnings and profits of the individual export trade corporations in the chain. Thus, the consolidation of export trade corporations under this section shall not have the effect of reducing earnings and profits of such corporations or of changing the characterization of income from that which is, for example, foreign base company income to that which is not. The application of this paragraph may be illustrated by the following example:

Example. Corporation A, incorporated under the laws of foreign country X, and corporation B, incorporated under the laws of foreign country Y, are both wholly owned subsidiaries of domestic corporation M. Corporations A and B both qualify under section 971(a) as export trade corporations. Corporation A purchases personal property produced in the United States from an unrelated person and sells the property to B Corporation for use outside of country X. Corporation B resells the property to an unrelated person for use in foreign country Z. Corporations A and B each derive foreign base company sales income described in §1.954–3 from the purchase and sale transactions. Consolidation of Corporations A and B under this section does not result in the two transactions being

treated as one transaction which is a purchase of property from an unrelated person and a sale of property to an unrelated person or the nonrecognition of gain on the sale of export property by A Corporation to B Corporation.

(2) *Determination of amount by which consolidated subpart F income is reduced*—(i) *In general.* In determining the amount by which the subpart F income of each export trade corporation includible in a consolidation of export trade corporations shall be reduced as provided in section 970(a) and paragraph (b)(1) of §1.970–1 for any taxable year of consolidation, the limitations provided by section 970(a) and paragraph (b)(2) of §1.970–1 on such amount for each such export trade corporation shall be determined on the basis of such corporation's separate share of—

(*a*) Amounts included in the total export promotion expense,

(*b*) The total gross receipts from the sale, installation, operation, maintenance, or use of property in respect of which each such corporation derives such export trade income as is properly allocable to the export trade income which constitutes foreign base company income, and

(*c*) The total increase in investments in export trade assets,

of all export trade corporations to which the consolidation applies for the taxable year.

(ii) *Limitations not effective.* If for any taxable year each of the limitations under paragraph (b)(2) of §1.970–1, determined on a consolidated basis, equals or exceeds the total export trade income which constitutes foreign base company income of all corporations includible in the consolidation of export trade corporations, the subpart F income of each includible corporation shall be reduced under section 970(a) for such year by its separate export trade income which constitutes foreign base company income.

(iii) *Limitation effective.* If for any taxable year one of the limitations under paragraph (b)(2) of §1.970–1, determined on a consolidated basis, is less than the total export trade income which constitutes foreign base company income of all corporations includible in the consolidation of export trade corporations, the amount by which the subpart F income of each includible corporation shall be reduced under section 970(a) for such year shall be an amount which bears the same ratio to the amount by which the subpart F income may be reduced on a consolidated basis as the export trade income which constitutes foreign base company income of each includible corporation bears to the total export trade income which constitutes foreign base company income of all export trade corporations includible in the consolidation of export trade corporations.

(iv) *Illustration.* The application of this subparagraph may be illustrated by the following example:

Example. (a) Domestic corporation M owns 100 percent of the only class of stock of controlled foreign corporation A, which, in turn, owns 100 percent of the only class of stock of controlled foreign corporation B. All corporations use the calendar year as the taxable year, and corporations A and B are export trade corporations throughout the period here involved. Corporation M elects under this section to consolidate corporations A and B for the entire period here involved. Corporation M elects under paragraph (a)(2) of §1.970–2 for 1963 to determine both A Corporation's and B Corporation's investments in export trade assets as of the close of the 75th day after the close of such corporations' taxable year.

(b) The following amounts are applicable to corporations A and B for 1964:

	Corporation A	Corporation B
Subpart F income	$100	$200
Export trade income which constitutes foreign base company income	25	75
Other export trade income	10	15
Export promotion expenses allocable to export trade income which constitutes foreign base company income	10	80
Gross receipts from the sale of property in respect of which export trade income which constitutes foreign base company income is derived	400	600
Increase in investments in export trade assets for period beginning with March 16, 1964, and ending with March 16, 1965	35	120

(c) The amount by which subpart F income of corporations A and B is reduced for 1964 on a separate-company basis without regard to section 972 may be determined as set forth in items (i) through (vii) below, and the results of the consolidation of corporations A and B for 1964 are set forth in items (viii) through (x). Assuming an alternative case in which for 1964 the facts are the same as set forth in

paragraphs (a) and (b) of this example except that B Corporation incurs export promotion expenses of $50 (rather than $80) which are allocable to the export trade income which constitutes foreign base company income, the results of the consolidation of corporations A and B for such year (a case where one of the limitations under paragraph (b)(2) of §1.970–1 is effective) are set forth in items (xi) through (xiii):

	A Corporation (1)	B Corporation (2)	Total (3)
(i) Subpart F income	$100	$200	$300
(ii) Export trade income which constitutes foreign base company income	25	75	100
(iii) Other export trade income	10	15	25
(iv) Total export trade income	35	90	125
(v) Limitations under §1.970–1(b)(2):			
(*a*) Increase in export trade assets limitation:			
($35 × $25/$35)	25		
($120 × $75/$90)		100	
([$35 + $120] × $100/$125)			124
(*b*) Gross receipts limitation:			
(10% of $400)	40		
(10% of $600)		60	
(10% of $1,000)			100
(*c*) Export promotion expenses limitation:			
(150% of $10)	15		
(150% of $80)		120	
(150% of $90)			135
(*d*) Export promotion expenses limitation (alternative case):			
(150% of $10)	15		
(150% of $50)		75	
(150% of $60)			90
(vi) Reduction in subpart F income on a separate company basis determined without regard to section 972 (item (ii), but not to exceed smallest of items (v) (*a*), (*b*), and (*c*), in columns (1) and (2))	15	60	75
(vii) Subpart F income as reduced on a separate company basis (item (i) minus item (vi))	85	140	225
(viii) Reduction in subpart F income on a consolidated basis determined under section 972 (item (ii), but not to exceed smallest of items (v) (*a*), (*b*), and (*c*), in column (3))			100
(ix) Apportionment of reduction in subpart F income (item (ii))	25	75	100
(x) Subpart F income as reduced on a consolidated basis (item (i) minus item (ix))	75	125	200
ALTERNATIVE CASE			
(xi) Reduction in subpart F income on a consolidated basis determined under section 972 (item (ii) but not to exceed smallest of items (v) (*a*), (*b*), and (*d*), in column (3))			9
(xii) Apportionment of reduction in subpart F income (item (xi) times [item (ii) of column (1) over item (ii) of column (3)] and item (xi) times [item (ii) of column (2) over item (ii) of column (3)]); ($90 × $25/$100)	$22.50		
($90 × $75/$100)		$67.50	90
(xiii) Subpart F income as reduced on a consolidated basis (item (i) minus item (xii))	77.50	132.50	210

(3) *Determination of pro rata share of consolidated withdrawal of previously excluded export trade income*—(i) *In general.* If, for any taxable year, there is a decrease in investments in export trade assets under section 970(b) and paragraph (c)(1) of §1.970–1, determined on a consolidated basis, of export trade corporations includible in a consolidated chain of such corporations, each United States shareholder who has elected under paragraph (a) of this section to consolidate his interest in such chain of corporations shall include in his gross income, under section 951(a)(1)(A)(ii) and the regulations thereunder as an amount to which section 955 (as in effect before the enactment of the Tax Reduction Act of 1975) applies, his pro rata share of the amount of such consolidated decrease in investments but only to the extent such pro rata share does not exceed the lesser of the limitations provided by section 970(b) and paragraph (c)(2) of §1.970–1 with respect to such shareholder determined on a consolidated basis. The consolidated decrease in investments and the consolidated limitations shall be determined by aggregating the applicable amounts determined under paragraph (c) of §1.970–1 with respect to such shareholder's interest in each corporation includible in the consolidation.

(ii) *Allocation of pro rata share of consolidated decrease in investments in export trade assets.* For purposes of determining the amount referred to in paragraph (c)(2)(i)(*b*)(*3*) of §1.970–1 for a subsequent taxable year, a United States shareholder's pro rata share of a consolidated decrease in investments determined under subdivision (i) of this subparagraph for the current taxable year shall be allocated to such shareholder's interest in each of the export trade corporations includible in the consolidation in that ratio which—

(*a*) The net amount determined under paragraph (c)(2)(i)(*b*) of §1.970–1 with respect to such shareholder's interest in such corporation for all prior taxable years (whether or not a taxable year occurring during the period of consolidation) bears to

(*b*) The total of the net amounts determined under paragraph (c)(2)(i) (*b*) of §1.970–1 with respect to such shareholder's interests in all export trade corporations includible in such consolidation for all prior taxable years (whether or not a taxable year occurring during the period of consolidation).

(iii) *Illustration.* The application of this subparagraph may be illustrated by the following example:

Example. (a) Domestic corporation M owns 60 percent of the only class of stock of controlled foreign corporation A, which, in turn, owns 100 percent of the only class of stock of controlled foreign corporation B. All corporations use the calendar year as a taxable year, and corporations A and B are export trade corporations throughout the period here involved. Corporation M elects to consolidate corporations A and B for the entire period here involved.

(b) The following amounts are applicable to corporations A and B for 1964:

	A (1)	B (2)	Consolidated (3)
(i) Consolidated decrease in investments in export trade assets (determined before application of §1.970–1(c)(2))	.....	.....	$100
(ii) M Corporation's pro rata share of consolidated decrease (60%)	.....	.....	60
(iii) M Corporation's pro rata share of earnings and profits for 1963 and 1964 (§1.970–1(c) (2)(i)(*a*)	$120	$90	210
(iv) M Corporation's pro rata share of net amount determined under §1.970–1(c)(2)(i)(*b*) for 1963	180	60	240
(v) Amount includible in M Corporation's gross income for 1964 (smallest of items (ii), (iii), and (iv) in column (3))	.....	.....	60

Corporation M must include $60 in its gross income for 1964 under section 951(a)(1)(A)(ii) by reason of the application of section 970(b) as its pro rata share of the consolidated decrease in investments in export trade assets; and, for purposes of determining the amount under paragraph (c)(2)(i)(*b*)(3) of §1.970–1 with respect to M Corporation's interest in each of corporations A and B for a subsequent taxable year, such consolidated decrease for 1964 is allocated as follows: to M Corporation's interest in A Corporation, $45 ($60 times $180/$240); and to its interest in B Corporation, $15 ($60 times $60/$240).

(c) The following amounts are applicable to corporations A and B for 1965:

	A(1)	B(2)	Consolidated (3)
(i) Consolidated decrease in investments in export trade assets (determined before application of §1.970–1(c)(2))	.....	.....	$150
(ii) M Corporation's pro rata share of consolidated decrease (60%)	.....	.....	90
(iii) M Corporation's pro rata share of earnings and profits (and deficits in earnings and profits) for 1963, 1964, and 1965 (§1.970–1(c)(2)(i)(*a*))	$100	($20)	80
(iv) M Corporation's pro rata share of the net amount determined under §1.970–1(c)(2)(i)(*b*) for 1963 and 1964.			
($180 − $45)	135		
($60 − $15)		45	
Total			180
(v) Amount includible in M Corporation's gross income for 1965 (smallest of items (ii), (iii), and (iv) in column (3)).			80

Corporation M must include $80 in its gross income for 1965 under section 951(a)(1)(A)(ii) by reason of the application of section 970(b) as its pro rata share of the consolidated decrease in investments in export trade assets; and, for purposes of determining the amount under paragraph (c)(2)(i)(*b*)(3) of §1.970–1 with respect to M Corporation's interest in each

of corporations A and B for a subsequent taxable year, such consolidated decrease for 1965 is allocated as follows: to M Corporation's interest in A Corporation, $60 ($80 times $135/$180); and to its interest in B Corporation, $20 ($80 times $45/$180).

(d) The following amounts are applicable to corporations A and B for 1966:

	A(1)	B(2)	Consolidated (3)
(i) Consolidated decrease in investments in export trade assets (determined before application of § 1.970–1(c)(2))	.....	.....	$200
(ii) M Corporation's pro rata share of consolidated decrease (60%)	.....	.....	120
(iii) M Corporation's pro rata share of earnings and profits (and deficits in earnings and profits) for 1963, 1964, 1965, and 1966 (§ 1.970–1(c)(2)(i)(*a*))	$120	$50	170
(iv) M Corporation's pro rata share of the net amount determined under § 1.970–1(c)(2)(i)(b) for 1963, 1964, and 1965.			
($180 minus [$45 + $60])	75		
($60 − [$15 + $20])		25	
Total			100
(v) Amount includible in M Corporation's gross income for 1966 (smallest of items (ii), (iii), and (iv) in column (3))	.....	.....	100

Corporation M must include $100 in its gross income for 1966 under section 951(a)(1)(A)(ii) by reason of the application of section 970(b) as its pro rata share of the consolidated decrease in investments in export trade assets; and, for purposes of determining the amount under paragraph (c)(2)(i)(b)(3) of § 1.970–1 with respect to M Corporation's interest in each of corporations A and B for a subsequent taxable year, such consolidated decrease for 1966 is allocated as follows: to M Corporation's interest in A Corporation, $75 ($100 times $75/$100); and to its interest in B Corporation, $25 ($100 times $25/$100).

[T.D. 6754, 29 FR 12714, Sept. 9, 1964, as amended by T.D. 7893, 48 FR 22512, May 19, 1983]

§ 1.981–0 Repeal of section 981; effective dates.

The provisions of section 981 are not effective for taxable years beginning after December 31, 1976. For the treatment of the community income of aliens and their spouses for taxable years beginning after December 31, 1976, see section 879 and the regulations thereunder.

[T.D. 7670, 45 FR 6929, Jan. 31, 1980]

§ 1.981–1 Foreign law community income for taxable years beginning after December 31, 1966, and before January 1, 1977.

(a) *Election for special treatment*—(1) *In general.* An individual citizen of the United States who meets the requirements of section 981(a)(1) and subparagraph (2) of this paragraph for any open taxable year beginning after December 31, 1966, and before January 1, 1977, may make a binding election with his nonresident alien spouse to have section 981(b) and paragraph (b) of this section apply to their income for such year which is treated as community income under the applicable community property laws of a foreign country or countries. Generally, the community property laws of a foreign country operate upon land situated within its jurisdiction and upon personal property owned by spouses domiciled therein. If the election is made for any taxable year, it shall also apply for all subsequent open taxable years of such citizen and his nonresident alien spouse for which all the requirements of section 981(a)(1) and subparagraph (2) of this paragraph are met, unless the Director of International Operations consents, in accordance with paragraph (c)(2) of this section, to a termination of the election. An election under section 981(a) and this section has no effect for any taxable year beginning before January 1, 1967, for which a separate election, if made, must be made under section 981(c)(1) and § 1.981–2. For the definition of ''open taxable year'' see section 981(e)(2) and paragraph (a) of § 1.981–3. If the citizen and his nonresident alien spouse have different taxable years, see paragraph (c) of § 1.981–3. If one of the spouses is deceased, see paragraph (d) of § 1.981–3.

(2) *Requirements to be met.* In order for a U.S. citizen and his nonresident alien spouse to make an election under section 981(a) and this section for any taxable year and in order for the election to apply for any subsequent taxable year it is required under section 981(a)(1) that, for each such taxable year, such citizen be (i) a citizen of the United States, (ii) a bona fide resident of a foreign country or countries during the entire taxable year, and (iii) married at the close of the taxable year