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Chairman: Mr. Mohammad MIR KHAN (Pakistan).

AGENDA ITEM 27

Economic development of under-developed countries (A/3154, A/3192) (*continued*): (*b*) International tax problems: report of the Economic and Social Council (A/C.2/L.318)

1. Miss BOWLBY (Canada) congratulated the Secretary-General on his excellent memorandum on international tax problems (E/2865).

2. Canada both imported and exported capital but on balance was a capital-importing country. As the Secretary-General's report showed, major capital-exporting countries had in fact greatly reduced their taxation of income derived from foreign investments, thus going a long way towards meeting the wishes of the less developed capital-importing countries. Canada had gone as far as any country in that respect, and perhaps further than others. It would urge countries wishing to attract private foreign capital to design their tax systems so as to offer foreign investors incentives and safeguards.

3. The Canadian tax system made various concessions as selective tax incentives. All inter-corporate dividends, including dividends transferred from foreign subsidiaries to parent Canadian companies, were exempted from taxation, thus removing any tax deterrent to direct investment through the establishment of foreign subsidiaries. The concession was granted whether or not the profits of the foreign subsidiary were taxed in the country of operation. It offered no special incentive to foreign as opposed to domestic investment. Under a second concession, the profits of corporations resident in Canada but carrying on all their operations abroad were exempted from Canadian corporate income tax. Foreign as well as Canadian funds could thus be channelled tax-free through such corporations to foreign countries. That concession offered a special tax incentive to foreign investment.

4. Canada had, in addition, signed bilateral double taxation agreements with eight countries and was negotiating a further four. The agreements provided for the reduction of Canada's tax claim on income earned in a foreign country by the amount of tax imposed by that country. Even where it had no agreement, Canada reduced its tax claims on income earned abroad to the extent that the income had already been taxed in the country of origin. Canada was willing to extend its system of double taxation agreements and would urge the negotiation of such agreements as a means of removing deterrents to foreign investment.

5. The French delegation, together with others, was submitting a draft resolution on the item under discussion (A/C.2/L.318); she felt that her delegation would be able to support it as a contribution to the maintenance of a climate favourable to the international flow of private capital and, hence, to the economic development of the less developed countries. It echoed earlier resolutions in urging the continuation of studies in progress, and her delegation looked forward to constructive results.

6. Mr. GISCARD D'ESTAING (France) said that in accordance with General Assembly resolution 825 (IX) on international tax problems, the Secretary-General had submitted a document to the Economic and Social Council at its twenty-second session analysing the laws in force in various countries regarding the taxation of foreign nationals, assets and transactions. Unfortunately, through pressure of work, the Council had been unable to examine that document thoroughly at that session. The question was, of course, primarily technical, and the double taxation of income, though an obstacle to the international flow of private capital, was not the only one: as discussion in the Committee had shown, there were others at least equally important, such as the lack of sufficient private capital, the need for investment in the countries where savings accumulated, currency restrictions limiting the export of capital, limitations on the repatriation of dividends, et cetera. Nevertheless an effort should be made to solve the problem, which had long exercised national legislators.

7. France, for its part, had adopted a number of measures designed, if not to prevent, at least to reduce the risk of double taxation. In general, France did not tax profits earned outside the metropolitan fiscal area. That applied in particular to French undertakings operating abroad through stable establishments whatever their legal form; it applied rather differently where French companies had interests in foreign undertakings. Exemption, partial or total, was accorded irrespective of the tax regulations applied in the territory where the income was earned.

8. Such relief could not be applied to distributed profits because of the personal nature of the individual income tax, the principle of which was that no account should be taken of the source of the income. In the franc area, income was taxed in the country in which the capital was invested. Investors could thus benefit from any tax advantages the country concerned might offer. In the case of income deriving from countries outside the franc area, the risk of double taxation remained and it was necessary to resort to the device of bilateral agreements, of which France had already signed fourteen. The French system was thus closely in accordance

with Economic and Social Council resolution 486 B (XVI).

9. France was well aware that owing to the budgetary, financial and economic implications of measures to reduce double taxation each country was the best judge of the measures it could take in that respect. It followed that the role of the United Nations must be to conduct research and provide documentation and advice. Within those limits, however, it could be of great service to Member States by providing the texts and translations of agreements, making studies of international tax trends, and drawing the attention of Governments to the economic or financial consequences of the tax policies they were following. At the purely technical level, it could provide models of different types of convention designed to prevent double taxation. In that connexion it might usefully follow the example set by the Fiscal Committee of the Organization for European Economic Co-operation which had defined such terms as "stable establishment" and "fiscal domicile" and had made a survey of taxes on income, property and successions so that they could all be included in future double taxation agreements. It had also considered the tax position of business activities particularly susceptible to multiple taxation, such as international sea, river and air transport.

10. On the basis of the Secretariat's studies[1] and the subsequent discussions it should be possible to compare the merits of the various systems, taking into account the need to encourage investment in the under-developed countries. In that connexion, his delegation viewed with some alarm the tendency of certain under-developed countries to organize their tax systems in such a way as to make double taxable inevitable. The problem of the choice of systems should receive greater attention from the Secretariat which might, in the course of its technical assistance activities, advise countries on the consequences of the adoption of a particular system.

11. When the Secretariat's studies were completed it might be useful to seek the opinion of a group of experts or of the Fiscal Commission. The latter had demonstrated the disadvantages of double taxation, especially for the under-developed countries; the more difficult the position of the borrowing country the more harmful were the effects. Incidentally, it was unfortunate that the Economic and Social Council had decided to discontinue the activities of the Commission despite the opposition of a number of delegations, including his own, for the conclusions to be drawn from the fiscal studies in progress undoubtedly constituted one of the problems on which the Council might perhaps be convened when the present studies were completed in order to prepare the way for constructive discussions in the Council and useful recommendations by it. If that were not possible, the preparation of such recommendations or suggestions might at least be entrusted to a group of experts, for the subject was too technical and the Council's future agenda too heavy for the Council itself to undertake the task. His delegation intended to revert to the matter at the next session of the Council.

12. On the basis of the considerations he had outlined, France had decided, together with other delegations, to submit a draft resolution acknowledging the progress made in the matter of eliminating international double taxation and asking the Council, upon the completion of the studies in progress, to offer any conclusions it might consider helpful in promoting further progress.

13. Mr. MORALES (Argentina) said that the item under consideration was of special interest to his delegation because it was closely connected with that of the international flow of private capital, a vital aspect of the financing of the economic development of the less developed countries. Although the role of private capital in economic development had been the subject of special study, it ought to be given greater attention both by the Secretary-General and by the Economic and Social Council and the Second Committee. In particular, there should be some review of the methods of representing quantitatively the importance of the contribution of private capital to the economic development of the less developed countries. Argentina owed its economic development largely to private capital and private enterprise, and looked to the same sources for its future progress, for experience had shown it that that method was more beneficial than State planning and coercion. Statistics were often deceptive: they could lead to conclusions which, though attractive, bore no relation to reality. He hoped that the future work of the Secretariat on that subject would help to clarify the matter.

14. International tax problems had, however, been given considerable attention both in the Secretary-General's reports and in discussions in United Nations bodies, and his delegation hoped that the studies would be continued and extended. As the documents showed, there had been a growing interest in both capital-exporting and capital-importing countries in preventing the deterrent effects of double taxation and providing tax incentives for private capital. In that connexion, the studies and recommendations of the International Chamber of Commerce were particularly interesting. They had shown quite conclusively that, if taxation were not to be an obstacle to international private capital investment, steps must be taken to prevent the double taxation of income.

15. In order to facilitate a greater volume of private investment, the capital-exporting countries must change their policy and do more than merely grant credit to offset taxation in the country of origin; they must recognize the principle of taxation at source and grant corresponding exemptions to investors. Once that principle was recognized, capital-importing countries could offer effective tax incentives and stimulate private investment. Argentina's taxation system was based on that principle, which he hoped would become more widespread.

16. Private organizations representing international investors had taken a great interest in the question. For example, the Inter-American Council of Commerce and Production at its meeting in New York in October 1956 had unanimously adopted a resolution to the effect that capital investment should be facilitated in the Latin American countries by the removal of various obstacles, including double taxation, which, by directly reducing income, discouraged potential investors from investing in the most important sectors of economic development. Again, at a Latin American conference on fiscal legislation held at Montevideo in October 1956, a resolution had been adopted unanimously recommending that as a general rule the principle of the source, as opposed to the principle of domicile or nationality, should be adopted in domestic legislation and in international treaties as the sole criterion for taxation in international practice. Lastly, the United States Na-

[1] See E/2865, para. 2.

tional Foreign Trade Council, at a meeting in November 1956, had declared that the United States programme of tariff agreements, designed to avoid international double taxation, should so far as possible be extended to cover the profits earned by United States enterprises abroad in order to provide a further stimulus to investments and trade.

17. He hoped that the studies and discussions would encourage the countries concerned, particularly the major capital-exporting countries, to consider the adoption of effective measures to promote a substantial increase in the volume of private investment with a view to furthering the economic development of the under-developed countries.

18. Mr. RAJAPATHIRANA (Ceylon) said that in recent years all countries had had to increase their taxes. However, if profits were taxed both in the country of origin and in the country of destination, enterprises—particularly newly established ones—would be severely handicapped. The problem had not been so acute when taxes were low. Today, however, corporation taxes had risen to 40 per cent and individual taxes to 75 per cent and more, while additional taxes such as business taxes and profits taxes had been found necessary. Double taxation could therefore give rise to serious difficulties unless remedial measures were taken.

19. The United Kingdom had been a pioneer in the field of income tax and had also been one of the first countries to subscribe to the principle of the avoidance of international double taxation. Also in the United Kingdom Nicholas Kaldor was sponsoring a new movement in favour of a tax on expenditure rather than on income, which might lead to the avoidance of double taxation problems like those now facing the Committee.

20. Clearly it was neither desirable nor practicable to achieve one over-all solution to the problem of double taxation. Methods suitable for one situation might not be appropriate in another. The types of remedial measure which would be adopted by both capital-exporting and capital-importing countries covered a wide range.

21. It was gratifying to note that, according to the report of the Economic and Social Council, international double taxation of foreign investment had been greatly reduced through the expansion of tax credit relief and other unilateral measures and the conclusion of some 150 bilateral income tax agreements (A/3154, para. 161).

22. His delegation wished to express its appreciation of the studies being undertaken on the subject by the Secretary-General. It also hoped that capital-exporting countries would try to ensure that taxes were levied solely or chiefly in the country of origin of income and that capital-importing countries would be able to attract capital by virtue of lower rates of taxation and similar concessions.

23. Mr. CUTTS (Australia) considered the memorandum prepared by the Secretary-General on taxation in capital-exporting and capital-importing countries of foreign private investment and the separate studies on taxation practices in individual countries to be very useful. The memorandum dealt with two principal issues: the elimination of international double taxation, which might be a deterrent to foreign investment, and the encouragement of foreign investment by special tax concessions.

24. As a general principle, Australia had not introduced tax incentives to attract foreign capital and did not consider fiscal legislation a suitable means of stimulating investment. Tax concessions tended to operate indiscriminately and to bring greater benefits to the higher-income investors although the small-income investors might be more desirable economically.

25. Australia had eliminated double taxation in respect of its own residents by means of tax credits or through agreements for the avoidance of double taxation.

26. Although primarily a capital-importing country, Australia did not subscribe to the view that income from foreign investments in capital-importing countries should be taxed in those countries only. The country in which profits originated had the prior right to tax them, but he also recognized the right of the taxpayer's country of residence to levy taxes on such profits. Double taxation should be averted by bilateral agreements or by the allowance of tax credits. The principle of ability to pay could be invoked in support of the claim that all residents in receipt of similar income should bear the same tax burdens irrespective of the source of income. If that principle were adopted, investors would neither be encouraged to invest nor discouraged from investing abroad, and there might be room for the capital-exporting countries to impose some measure of taxation on profits derived by their residents from foreign investment. The quantity of tax so levied should be limited in such a way that the total tax on income from overseas investments did not exceed the tax levied on residents in respect of income from other sources. In other words, the margin remaining for the capital-exporting countries to tax should be the difference between the tax rates of the capital-importing and capital-exporting countries. It was essential, if that principle were to be put into effect, that the capital-exporting countries should take all necessary action to reduce their levels of taxation on such income to adequate proportions, namely to levels not exceeding the difference between the two rates applicable to the income in question. Generally speaking, the best method was to make an allowance of credits.

27. As a capital-importing country, Australia would welcome some indication from the capital-exporting countries that they were prepared to review their tax credit systems with a view to rendering them more adaptable to changing circumstances. An inadequate formula for the ascertainment of the precise rate of taxation credit to be allowed often left a considerable margin of double taxation and acted as a deterrent to the export of capital. That was a technical question rather than an issue of principle, and the capital-exporting countries could do much to reduce the restraint on the flow of capital by carefully reviewing their taxation machinery.

28. In short, while favouring the avoidance of double taxation, his Government did not go so far as to seek complete exemption in the capital-exporting countries of income from sources abroad. If such income were thus exempt, the under-developed countries would be tempted to compete for capital by reducing their tax rates to a degree not justified by economic considerations—a system that would tend to favour the larger enterprises. It would be fairer if the capital-exporting countries liberalized the measures by which double taxation was relieved and if they ensured that the level of their taxation did not constitute a positive impediment to the foreign investment of capital.

29. Mr. GISCARD D'ESTAING (France) said that the main purpose of the four-Power draft resolution was to ensure the continuation of the studies on interna-

tional tax problems in the spirit of previous General Assembly resolutions.

30. Mr. RAJAPATHIRANA (Ceylon) noted that General Assembly resolution 825 (IX) apparently did not set a time-limit for the studies on taxation, while the four-Power joint draft resolution called upon the Economic and Social Council to present such conclusions at it might reach from its consideration of those studies to the thirteenth session of the General Assembly. Subject to clarification of that point, he was prepared to support the draft resolution.

31. Mr. GISCARD D'ESTAING (France) said that, judging by the rate of progress of the work so far, it was believed that the Secretary-General could complete the requested studies in time for submission to the Council.

32. Mr. BLOCH (Secretariat) confirmed that the Secretariat would be in a position to complete the studies it had announced in the time requested.

33. Mr. STIBRAVY (United States of America) said that he would vote for the joint draft resolution. His Government had always been keenly interested in the points covered in the draft resolution which dealt with one means of encouraging the international flow of private capital. The United States had in effect a system of granting tax credits which was an effective device in minimizing double taxation, especially when supplemented by international tax agreements. His Government had concluded tax agreements with nineteen other countries.

34. In his report to Congress, President Eisenhower had suggested that the flow of capital abroad would be facilitated by the negotiation of tax agreements which recognized tax reductions by other countries designed to attract foreign capital. Discussions with several countries in pursuance of that suggestion had reached an advanced stage.

35. Mr. CHERNYSHEV (Union of Soviet Socialist Republics) said that economic development in the under-developed countries should be financed mainly out of the domestic resources of those countries themselves. External capital should be used only to supplement domestic resources and only on condition that it did not result in political interference. Too much emphasis had been laid in United Nations bodies upon the importance of creating a favourable climate for the investment of foreign capital. It was much more important to take into account the desires of the importing countries themselves. It would be impossible to lay down a general formula covering completely different cases relating to international tax problems. Nor could such a formula be used as a means of imposing a specific solution on other countries. Such problems could be solved much more easily by bilateral agreements. For those reasons, his delegation would abstain from voting on the joint draft resolution.

The meeting rose at 12.35 p.m.

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