

FISCAL COMMISSION

DOCUMENTARY MATERIAL CONCERNING THE LEAGUE OF NATIONS'
FISCAL COMMITTEE

I. NOTE BY THE SECRETARIAT

1. On 14 December 1946, the General Assembly requested the Economic and Social Council and the Secretary-General to assume and continue, certain non-political activities and functions previously exercised by the League of Nations. An extract of the relevant resolution is reproduced in Part II of that document.
2. The Fiscal Commission may find it appropriate to consider this matter within the framework of its terms of reference.
3. For its part the Fiscal Committee of the League of Nations stated in the report on its last session held in March 1946 its views on the possible continuation of its technical work on international fiscal problems.
4. This statement is reproduced in Part II of this document for information purposes. It was formulated in the light of the tentative terms of reference of the Fiscal Commission, as drafted by the Preparatory Commission in December 1945.* These tentative terms of reference differ somewhat, it is to be noted, from the terms of reference finally stipulated by the Economic and Social Council on 1 October 1946.*

II. EXTRACT FROM GENERAL ASSEMBLY RESOLUTION 51 OF 14 DECEMBER 1946
ON THE TRANSFER OF CERTAIN NON-POLITICAL FUNCTIONS
AND ACTIVITIES OF THE LEAGUE OF NATIONS
(A/64/ADD.1, PAGES 78-79)

The General Assembly, therefore,

Authorizes and requests the Secretary-General to assume and continue

RECEIVED Cf. document E/CN.8/...

/the non-political

MAR 24 1947

UNITED NATIONS
ARCHIVES

the non-political functions and activities of the League of Nations previously performed by the League of Nations Secretariat, with the exception of:

- (a) Those functions and activities exercised pursuant to international agreements;
- (b) Those functions and activities entrusted to specialized agencies which have been, or are to be, brought into relationship with the United Nations, under Articles 57 and 63 of the Charter.

The Secretary-General shall exercise the functions and activities authorized by this paragraph, subject to such policies as may be established by the Economic and Social Council.

Authorizes and requests the Economic and Social Council to assume and continue the non-political functions and activities of the League of Nations previously performed by the various committees and commissions of the League with the exception of:

- (a) Those functions and activities exercised pursuant to international agreements;
- (b) Those functions and activities entrusted to specialized agencies, which have been, or are to be brought into relationship with the United Nations, under Articles 57 and 63 of the Charter.

This resolution shall not affect any decision of the General Assembly with respect to functions and activities exercised by the League of Nations pursuant to international agreements.....

III. EXTRACT FROM LEAGUE OF NATIONS FISCAL COMMITTEE REPORT
ON THE TENTH SESSION, LONDON, MARCH 1946 (C.37.M
37.1946.II.A PAGES 8 TO 14 AND 77 TO 79)

.....III. Suggestions for Future Work on Tax Problems

The Fiscal Committee is gratified to note the recommendation of the Preparatory Commission of the United Nations set forth in paragraph 34 of the Report of that Commission in regard to the desirability of establishing

/a Fiscal

a Fiscal Commission of the Social and Economic Council. This recommendation reads as follows:

"Fiscal Commission

"34. This Commission would make studies and advise the Council on matters related to:

- "(a) International taxation problems;
- "(b) Exchange of information among States on the techniques of Government finance and on their social and economic effects;
- "(c) Fiscal techniques to assist the prevention of depressions or inflation; and
- "(d) Such functions of the Fiscal Committee of the League of Nations as the United Nations may decide to assume."

(a) International Tax Problems

These tax problems may in the main be considered under the following headings:

- (i) Double taxation of income, estates and successions, property and capital, etc.;
- (ii) Extra-territorial taxes;
- (iii) Discriminatory and special taxes on foreigners and on capital invested abroad;
- (iv) Special taxes on international transactions, such as taxes on the purchase of foreign exchange and remittances abroad;
- (v) Taxes on international communications and transport;
- (vi) Mutual assistance between national tax administrations in connection with the assessment and collection of taxes, including the prevention of fiscal evasion.

The tax experts who have met under the auspices of the League of Nations since 1923 have considered most of these problems in their major aspects and the Model Conventions which they drafted have

/exercised

exercised an influence as previously indicated, especially in the field of the prevention of international double taxation and fiscal evasion, by facilitating the conclusion of numerous bilateral tax treaties. Much remains to be done, however, especially on account of the constant increase of tax burdens and also with a view to assisting the desired revival of international trade and investment. Indeed, efforts to remove these obstacles on international economic intercourse which result from tariffs, preferences and other restrictive trade practices can be largely frustrated through the operation of tax laws.

The Committee therefore desires to emphasize its belief that further studies should be made with a view to solving these tax problems in the interest of world rehabilitation. Further comment on some of the details of the questions which arise in this connection appears in Annex B. The importance of international tax problems is illustrated by the fact that, since the beginning of the 'twenties, well over sixty general treaties have been concluded for the prevention of double taxation and that nearly 250 special agreements on various international tax matters were signed, not counting the treaties of friendship and establishment, the commercial treaties and other international instruments that contain incidental clauses on tax matters.

The Committee wishes to draw attention to the fact that, among the topics relating more especially to the prevention of international double taxation, there are two which seem to require prompt consideration. In the first place, it is desirable to arrive at a comprehensive set of rules regarding the determination and allocation of taxable income in the case of business enterprises carrying on their activities in more than one country. The provisions suggested

/by the

by the Fiscal Committee for that purpose embody principles that are generally recognized as sound. These principles may, however, require some elaboration as regards the manner in which they should be applied to the various types of enterprises. In the second place, there persists a difference of opinion between capital-importing and capital-exporting countries as regards the taxation of interest and dividends. Such divergencies might be more easily reconciled in the negotiation of tax treaties if studies were undertaken of the various legal, administrative and economic aspects of this problem.

The structure and incidence of a country's tax system have a direct influence on the capacity and willingness of domestic concerns to do business abroad as well as on the ability of the country to attract foreign capital and enterprises. It would be difficult to remove the obstacles which taxation may oppose to international trade and investment without determining the manner in which the different types of taxes, considered separately and together, can be adapted to the social and economic conditions of the various countries.

(b) Exchange of Information among States on the Techniques of Government Finance and on Their Social and Economic Effects

The Fiscal Committee recalls that work of this type was begun under its auspices and is pleased to think that this task may be effectively continued under the Fiscal Commission. The establishment of a repository of the texts of tax treaties, whether or not ratified, as well as regulations and decisions relative thereto, and a clearing-house between tax administrations of information not only in regard to treaties but also including national tax laws and regulations, will be of value to countries in the improvement of their tax systems. This collection and distribution of information might usefully cover all forms of taxation, direct and indirect,

/national

national and local. The work could consist of periodical surveys and digests of treaties, laws and regulations, possibly complemented by statistical data, and of special studies on particular tax problems. International digests and bibliographies of both official and unofficial publications on tax matters might also be useful to national revenue authorities and to the Fiscal Commission.

(c) Fiscal Techniques to Assist the Prevention of Depressions or Inflation

During the years immediately preceding World War II, the Fiscal Committee was engaged in a study of the relations between fiscal policy, structure of tax systems, yield of taxes and economic fluctuations. The conditions of economic stability and development no doubt belong to the field of the general economist. Nevertheless, it may be found convenient that a committee of tax administrators and experts should study the practical effects of tax legislation and administration from the point of view of Government revenue and business activity. Moreover, the tax requirements of the development of economically-less-advanced countries call for special study.

(d) Such Functions of the Fiscal Committee of the League of Nations as the United Nations may decide to assume

During the first years of its existence, the Fiscal Committee concentrated its attention on the problems of international double taxation and prevention of fiscal evasion in the matter of income and other direct taxes. In this connection, it carried out detailed studies concerning the determination and allocation or apportionment for tax purposes of the income of enterprises doing business in more than one country. At the same time, it considered the international problems which arose with respect to the taxation of motor vehicles, bills of exchange, promissory notes, cheques and similar documents, of newspapers and periodicals, and double taxation in regard to

/turnover

turnover taxes. Later, it was engaged in studies on fiscal policy and economic fluctuations, on the sensitiveness of the yield of taxes to the business cycle and on the technical problems of direct taxation. These latter studies, in particular, proved of definite value to countries in Latin America and other parts of the world which were contemplating the modernization of their tax systems.

The Secretariat published, under the supervision of the Fiscal Committee, a Collection of International Treaties and Internal Measures for the Prevention of Double Taxation and Fiscal Evasion and a series of volumes on the Taxation of Foreign and National Enterprises which included descriptions of the income tax systems of over thirty countries insofar as they affected enterprises engaged in international business. Comparative studies were prepared for the mutual information of national tax administrations on questions such as taxable income, fiscal domicile and residence, tax administration, methods of tax assessment and collection, legal protection of taxpayers.

The Committee co-operated with other League committees on matters of common interest, for instance, with the Economic Committee in 1929 with respect to the treatment of foreigners. In 1945, a Joint Committee of members of the Economic, Financial and Fiscal Committees was set up to study the "Conditions of Private Foreign Investment." The report of that Joint Committee is soon to be published. It is an attempt to formulate certain standards of conduct which should inspire the various interests concerned in capital-receiving and capital-exporting countries so as to bring about a revival of private foreign investment. The Fiscal Committee was also represented by one of its members for several years at the meetings of the Financial Committee, who took part in the discussions

/of that

of that Committee in an advisory capacity.

The various forms of activity of the Fiscal Committee which might usefully be continued by the Fiscal Commission and its secretariat may be summarized as follows:

- (i) Consultation: To hold or arrange periodical meetings, general or regional, enabling tax administrators and experts to carry out the various objectives enumerated above, to discuss problems where exchange of views may be of value and to promote mutual understanding through direct contacts;
- (ii) Advice: On request, and on its own initiative, to formulate proposals or recommendations on tax matters to the Social and Economic Council or other international agencies and Governments;
- (iii) Assistance: To arrange, when required, for advice or technical help through its members, the secretariat or other experts, to particular national tax authorities;
- (iv) Research: To carry out enquiries into the legal, administrative, technical, economic, statistical, accounting and other aspects of the tax problems coming up before the Commission;
- (v) Information: To issue periodical and special publications presenting particularly to international and national authorities information concerning tax treaties, legislation, administration and practice;
- (vi) Liaison: In addition to the official relationships inherent in the functions enumerated above, to maintain relations with such non-official organizations as business, professional and academic associations, international and national, insofar as they study tax problems.

ANNEX B

SUGGESTED STUDIES IN THE FIELD OF
INTERNATIONAL TAX PROBLEMS

A number of tax problems might be well considered under the general heading of "Trade Barriers". Experience has shown during the inter-war period that various taxes have a definite restrictive effect on international trade. These include, in addition to the whole problem of double taxation through income and similar taxes and through death duties, the following:

1. Taxes directly inhibitory to the flow of capital such as:
 - (a) Exchange taxes on capital transfers both into and out of a country;
 - (b) Exchange taxes on income transfers such as payments of interest, dividends, royalties, annuities, etc., from one country to another country;
 - (c) Exchange and other taxes such as admittance taxes on persons travelling for business or other purposes and on the amounts taken into or out of a country by such travellers;
2. Taxes on amounts earned or presumed to have been earned within a given country by business visitors normally resident in other countries and the onerous clearance requirements for tax purposes before visitors can leave the country;
3. Taxes on earnings attributed to occasional transactions within a country by a person with his fiscal domicile in another country;
4. Extra-territorial taxation by a country of a foreign enterprise with an establishment in that country, on foreign earnings or property arbitrarily ascribed to the establishment within the taxing country;
5. Refusal by a country to permit a foreign enterprise to deduct from the earnings of a branch establishment within the country's territory, expenses incurred by the enterprise abroad in connection with that establishment;
6. Restrictions in the country where a foreign enterprise has a branch establishment on deductions for business expenses, depreciation and depletion that are normally allowed in the country where the foreign enterprise has its fiscal domicile;

7. Discriminatory taxation of foreign individuals and companies through the imposition of different or higher rates than those imposed on nationals or domestic companies or the denial of certain allowances and deductions enjoyed by the latter;

8. Presumptive or empirical tax assessments on foreign individuals and companies.

In general, the tax and related obstructions on commercial activities from one country to another have been set forth in the Report of the League of Nations Joint Committee on Conditions of Private Foreign Investment. It is suggested that this work be submitted to the Fiscal Commission of the United Nations for study in connection with the above subjects.

A question that has arisen from time to time is that of the application of the most-favoured-nation clause in connection with tax treaties. In the past, the view has been that such treaties are contingent upon mutual concessions on a bilateral basis. Consequently, such treaties would not come within the ordinary field of application of the clause. Nevertheless, in view of the close inter-relation between tax treaties and commercial treaties, it might be desirable to examine again whether tax treaties should not be so formulated as to permit the application of the most-favoured-nation clause. Obviously, as tax treaties become more and more standardized through adherence to the models prepared by the League of Nations Fiscal Committee, and possibly in future years by the Fiscal Commission of the United Nations, the extension of the clause to tax matters may become more and more practicable.

In general, it is becoming increasingly evident that the conclusion by an increasing number of States of bilateral treaties along the lines of the Model Conventions of London and Mexico constitutes the most adequate means of removing the existing serious tax obstructions to the international flow of capital and foreign trade.