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Sixteenth Session

ECONOMIC COMMITTEE

SUMMARY RECORD OF THE ONE HUNDRED AND THIRTY-SECOND MEETING

held at the Palais des Nations, Geneva,
on Tuesday, 7 July 1953, at 11 a.m.

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Present:

Chairman:

Mr. B. R. SEN (India)

Members:

Argentina	Mr. BUNGE
Australia	Mr. WOODROW
Belgium	Mr. de KINDER
China	Mr. HSIA
Cuba	Mr. RIBAS
Egypt	Mr. el TANAMLI
France	Mr. LEGATTE
India	Mr. ADARKAR
Philippines	Mr. LOPEZ
Poland	Mr. BLUSZTAJN
Sweden	Mr. STERNER
Turkey	Mr. KURAL
Union of Soviet Socialist Republics	Mr. MOROZOV
United Kingdom of Great Britain and Northern Ireland	Mr. ANDERSON
United States of America	Mr. WYNNE
Uruguay	Mr. STEWARD-VARGAS
Venezuela	Mr. RIVAS
Yugoslavia	Mr. RAKNIĆ

Observers:

Indonesia	Mr. DJELANLIK
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Representative of a specialized agency:

International Labour Organisation (ILO)	Mr. BURTLE
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Representative of a non-governmental organization:

Category A

World Federation of Trade Unions

Mr. LIU CHANG CHENG

Secretariat:

Mr. Blough

Principal Director,
Division of Economic
Affairs.

Mr. Dumontet

Secretary to the
Committee.

REPORT OF THE FISCAL COMMISSION (FOURTH SESSION) (item 9 of the Council's agenda) (concluded):

Draft resolution B on International Tax Problems (E/2429) and amendments thereto ^{1/} (concluded).

Mr. WYNNE (United States of America) reminded the Committee that he had supported the Fiscal Commission's draft resolution B in the Council; many delegations, however, having expressed the wish that the problem should receive further study, he had proposed an amendment ⁽¹⁾ which he had hoped might enable the draft resolution to command general support.

Consequently, he welcomed the consolidated amendments, ⁽¹⁾ in which the six sponsoring delegations had endeavoured to achieve the same result. The proposed amendments retained the main substance of draft resolution B, met most of the wishes that had been expressed, and provided that the very complex problem involved should receive further study.

On certain minor points, however, he had proposals to make. Although amendment 1 provided some useful clarification of paragraph (c), the omission of the word "can" to qualify the verb "offer" left the implication that the lower taxation levels referred to did in fact provide an attraction, whereas it was stated in paragraph (d) of draft resolution B that they would only do so provided the conditions set forth in paragraph (d) were met. Amendment 1 also seemed to imply that the under-developed countries adopted low tax rates for the express purpose of attracting foreign capital, whereas tax systems were evolved for a variety of internal reasons, the attracting of foreign capital being merely incidental. He proposed, therefore, the following text for paragraph (c) in place of amendment 1:

"(c) That the relatively lower taxation in force in the under-developed countries, as compared with capital exporting countries, is one of the attractions which the under-developed countries may be in a position to offer to foreign capital as an incentive to investment."

⁽¹⁾ For text see Annex to E/AC.6/SR.131.

He supported the first part of amendment 2, but proposed that the remainder of the sentence "together with recommendations for practical measures to solve the problem" be deleted. He submitted that the only measures which the sponsors of the amendment would be likely to regard as solving the problem would be action by the highly developed countries of the kind referred to in operative paragraph 2 of the draft resolution. States had sovereign power over their own fiscal legislation. The phrase to which he objected would consequently saddle the Fiscal Commission with an embarrassing task, and raise an expectation, which could not be fulfilled, that the Commission would be able to make other recommendations capable of leading to such a solution of the problem.

Mr. RIVAS (Venezuela) wondered whether it would meet the wishes of both the Philippine representative, who had proposed amendment 2, and the United States representative, if the second phrase, instead of being deleted, were amended to read: "together with conclusions as to possible practical measures to solve the problem".

Mr. LOPEZ (Philippines) said that he had introduced the phrase in question into amendment 2 in order to ensure that the Fiscal Commission should not merely engage in an academic study yielding no practical action. United Nations bodies had already made recommendations to governments about their legislation concerning, for example, human rights and collective security measures, and those recommendations, though without binding force, carried moral weight. He recognized, however, that governments would be sensitive about having recommendations addressed to them on the subject of their taxation laws, and therefore accepted the Venezuelan representative's proposal.

Mr. STERNER (Sweden) felt that to ask the Fiscal Commission to make further recommendations would imply criticism of the Commission's past efforts. It would, he was sure, make recommendations embodying the practical conclusions resulting from its studies, whether instructed to do so or not. He therefore supported the United States proposal for the omission of the final sentence in amendment 2. "Conclusions" and "recommendations" were synonymous in the context in question.

Mr. BUNGE (Argentina) also supported the Venezuelan suggestion. The Council could not legislate, but it could, and should, make recommendations on matters such as double taxation which were liable to cause international friction. He hoped that the recommendations, or conclusions, arising out of the studies would result in the universal adoption of a standardized system of taxation legislation. An international convention would be even more desirable, and might perhaps be an ultimate possibility.

Mr. el TANAMLI (Egypt) found the United States proposal concerning amendment 1 acceptable; it did not ask those under-developed countries which were anxious to attract foreign capital to lower their taxation levels, which were adapted to their economic situation.

Mr. WYNNE (United States of America) agreed that the words "in force" covered the point mentioned by the Egyptian representative.

Mr. STERNER (Sweden) suggested that, since the sponsors of the joint amendments were unable to agree to the deletion of the last phrase of amendment 2, that phrase be amended to read: "together with such recommendations as may emerge from these continued studies and analyses", a formula which recognized that there would be recommendations, while avoiding an unduly strong request to the Committee to make them.

Mr. ADARKAR (India) endorsed the Egyptian representative's remarks: too great a reduction in the taxation rates imposed by capital-importing countries would mean those countries competing for capital, which would endanger the stability of their budgets and cause hardship, above all for the poorest of their citizens. He was in favour of paragraph (c) as it stood in draft resolution B, but was prepared to support the United States proposal, provided the words "are in a position to" were substituted for "may be in a position to".

He also accepted amendment 2, subject to adoption of the Swedish representative's most recent amendment thereto.

Mr. LEGATTE (France) said that the French delegation still took the view it had expressed when the discussion had begun, namely, that additional information was necessary in order to continue to study the question of double taxation. His delegation was glad to find that it had been possible to agree that the Fiscal Commission should be asked to look into the question again in the light of further studies submitted by the Secretary-General.

The French delegation also supported the latest Swedish amendment to amendment 2. The Council should have confidence in the Fiscal Commission and leave it free to make recommendations or defer making known its conclusions, as it thought fit.

Mr. RIVAS (Venezuela), subject to the consent of his co-authors, proposed that, to avoid any suggestion of criticism of the Fiscal Commission, the last phrase of paragraph (f) should be amended to read: "together with such recommendations about possible practical measures to solve the problem as may emerge from this analysis and study".

Mr. ANDERSON (United Kingdom) was in general agreement with the substance of the consolidated amendments. He supported the United States proposal concerning amendment 1, but was equally prepared to accept the Indian representative's suggestion that the word "are" be substituted for "may be" therein. In the case of amendment 2, he preferred the Swedish suggestion, though he appreciated the point of the Venezuelan compromise proposal. The Fiscal Commission, if asked to make studies and analyses, would do so to the best of its ability, and could be trusted to produce whatever recommendations might be appropriate in the circumstances. It was therefore unnecessary to press the Commission further.

Mr. STEWARD-VARGAS (Uruguay) considered it desirable to retain the last phrase of paragraph (f), which was intended to reflect the view expressed earlier by the United States representative, namely, that other measures, independent of questions of double taxation or exemption from taxation, might be found to provide a stimulus to private investment. The Fiscal Commission should be reminded that such a third solution might exist, and be asked to seek positive, independent incentives.

Mr. RIBAS (Cuba) supported the Uruguayan representative's view.

Mr. RIVAS (Venezuela) attached particular importance to the word "practical". The Fiscal Commission was to be asked to seek measures of a practical, as distinct from a legal, nature.

Mr. STERNER (Sweden) suggested that the formula "... together with such practical recommendations as may emerge from this continued study and analysis" might meet the point.

Mr. RIVAS (Venezuela), Mr. BUNGE (Argentina) and Mr. STEWARD-VARGAS (Uruguay) accepted that suggestion.

Mr. WYNNE (United States of America) said that he could accept amendment 2 as modified by the Swedish representative, though he would have preferred that the Fiscal Commission's full freedom of action should not be restricted, even by the use of the word "practical".

Passing to amendment 3, he said that his delegation had no objection to the text proposed for paragraph 1 of the operative part of draft resolution B.

Mr. WOODROW (Australia) and Mr. ADARKAR (India) said that they did not maintain their objections to the replacement of paragraph 1 of the Fiscal Commission's draft resolution by amendment 3.

Referring to amendment 4, Mr. WYNNE (United States of America) said his delegation felt some difficulty about the word "favourable", which seemed to pre-judge the direction which governments' decisions regarding double taxation should take. He proposed to replace it by the word "special".

Further, he felt that the phrase "... meanwhile, pending the further analysis and factual study of the problem referred to in paragraph (d) above", introduced some confusion, in that it implied that the highly developed countries should give the special consideration suggested in the latter part of the paragraph only for so long as the Fiscal Commission was making further studies. He therefore proposed its deletion.

Mr. BUNGE (Argentina) had no objection to the replacement of the word "favourable" by the word "special". He was, however, in favour of keeping the phrase "meanwhile paragraph (d) above", since it indicated that study of the problem was still in progress, and that at a later date new solutions might emerge.

Mr. RIVAS (Venezuela) supported the Argentine representative's views. The proposed additional paragraph (f) introduced into draft resolution B the new idea of further study by the Fiscal Commission, an idea of which account should be taken in the operative part. Any tautology could be overcome by deleting the word "meanwhile".

Mr. el TANAMLI (Egypt) pointed out that the text of amendment 4 recognized in principle the desirability of exempting from taxation in the capital-exporting countries income from investments in under-developed countries. The experts had stated their position on that subject. There was nothing contradictory between that principle and the request to capital-exporting countries to "give favourable consideration" to the feasibility of taking the necessary action. The word "favourable" might therefore be kept.

Mr. LEGATTE (France) saw no reason why the words "avec bienveillance" should not be kept in the French text. It was normal administrative language, and was in no way objectionable.

Mr. HSIA (China) suggested that the word "meanwhile" be retained, but the remainder of the phrase ("pending the further analysis..... in paragraph (d) above") deleted.

Mr. ADARKAR (India) could accept the word "special" instead of "favourable". With regard to the phrase "meanwhile, pending further analysis in paragraph (d) above", any wording would be acceptable to him which would indicate that further recommendations might be expected from the Fiscal Commission in due course, but that the governments of highly developed countries should in the meantime continue to give consideration to the problem. He pointed out that the reference should be to "paragraph (f) above" rather than to "paragraph (d)".

Mr. WYNNE (United States of America) said that, as he understood it, the purpose of the paragraph was to make a particular recommendation to governments, and to indicate that at a later date, when the new studies referred to in paragraph (f) had been completed, new recommendations might be forthcoming. He could accept the Chinese representative's proposal.

Mr. LOPEZ (Philippines) said that on the understanding that the word "meanwhile" alone constituted adequate reference to the study mentioned in paragraph (f) of the preamble, he could accept the amendment proposed by the Chinese representative.

Mr. RIVAS (Venezuela), Mr. BUNGE (Argentina) and Mr. STEWARD-VARGAS (Uruguay) also accepted that proposal.

The CHAIRMAN said that he would first put to the vote each of the joint amendments, followed by draft resolution B as a whole and as amended.

He put to the vote the amended text of paragraph (c) of the preamble, reading:

"That the relatively lower taxation in force in the under-developed countries, as compared with capital exporting countries, is one of the attractions which the under-developed countries may be in a position to offer to foreign capital as an incentive to investment".

That amendment was adopted by 15 votes to none, with 3 abstentions.

The CHAIRMAN put to the vote the amended text of the additional paragraph (f) to the preamble, reading:

"(f) that further analysis and factual study of the problem referred to in paragraph (d) above is needed, together with such practical recommendations as may emerge from this continued study and analysis".

The additional paragraph (f) to the preamble was adopted by 15 votes to none, with 3 abstentions.

The CHAIRMAN put to the vote the new paragraph 1 of the operative part, reading:

"Notes that the Fiscal Commission plans to continue its study of the problem referred to in paragraph (d) above and anticipates a report on the results of its further studies to the Council after the next meeting of the Commission".

Paragraph 1 of the operative part was adopted by 16 votes to none, with 2 abstentions.

The CHAIRMAN put to the vote the amended text of paragraph 2 of the operative part, reading:

"Recommends, meanwhile, that the highly developed countries, acting unilaterally or when concluding tax agreements, should give special consideration to the feasibility of taking action to ensure that such income is taxable only or primarily in the country in which the income was produced".

The amended text of paragraph 2 was adopted by 15 votes to none, with 3 abstentions.

The CHAIRMAN put to the vote draft resolution B as a whole and as amended.

Draft resolution B of the Fiscal Commission, as a whole and as amended, was adopted by 15 votes to none, with 3 abstentions.⁽¹⁾

(1) Resolution adopted by the Economic and Social Council on 9 July 1953 (E/RESOLUTION (XVI)/13).

The CHAIRMAN pointed out that no vote need be taken on draft resolution E II of the Fiscal Commission on United Nations priority programmes and concentration of effort and resources, since it would be considered by the Council in plenary, together with the Committee's report on resolution B. The work of the Committee on that item of the agenda was therefore concluded.

In reply to a question from Mr. BLUSZTAJN (Poland), Mr. RIBAS (Cuba) said that in his delegation's view the Cuban draft resolution⁽¹⁾ should have been voted upon before draft resolution B of the Fiscal Commission. However, since the Chairman had ruled otherwise, his delegation had accepted in principle the proposal that its draft resolution should be referred to the group of experts to be set up in accordance with General Assembly resolution 623 (VII). His delegation had been unable to accept the view that the Fiscal Commission's study was complete, and that its draft resolution could not be improved upon; and for that reason it had supported the Argentine amendment requesting the Commission to continue its examination of the question. Subsequently, in a spirit of conciliation, his delegation had joined with those of Argentina, Egypt, Philippines, Uruguay, and Venezuela in proposing the consolidated amendments which had just been discussed and adopted with certain modifications. The original Cuban draft resolution would be introduced again at a suitable time in the appropriate body.

The Committee rose at 1.15 p.m.

(1) For text see E/AC.6/SR.131, Annex, IA.