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OFFICIAL RECORDS

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PALAIS DES NATIONS, GENEVA

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President: Mr. Raymond SCHEYVEN (Belgium).

Present:

The representatives of the following countries: Argentina, Australia, Belgium, China, Cuba, Egypt, France, India, Philippines, Poland, Sweden, Turkey, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yugoslavia.

Observers from the following countries: Brazil, Indonesia, Netherlands.

The representative of the following specialized agency: International Labour Organisation.

Report of the Fiscal Commission (fourth session)
(E/2429, E/L.510, E/L.515 and Corr.1, E/L.517 and Corr.1, E/L.518 and E/L.520) (continued)

[Agenda item 9]

1. The PRESIDENT invited the Council to vote on draft resolution A in the report of the fourth session of the Fiscal Commission (E/2429, paragraph 49).

Draft resolution A was adopted unanimously.

2. Referring to draft resolution B (E/2429, paragraph 50), Mr. RIVAS (Venezuela) recalled that he had already indicated his approval of paragraph 4 of the Argentine amendment (E/L.515) to the Cuban draft resolution (E/L.510). His delegation considered the problem so complex as to demand further study by the Fiscal Commission.

3. As regards the treatment of foreign capital, it was well known that Venezuela was in a special position, and his Government took pride in granting wide facilities to foreign investors. European, as well as United States, investments were found in Venezuela, and in recent years there had been examples of major undertakings financed with mixed capital; by way of illustration he might mention a recent enterprise launched with the aid of Belgian and Venezuelan investments. Foreign capital enjoyed equal rights with and had the same responsibilities as Venezuelan capital. That circumstance, however, should not be taken as an argument against the Cuban proposals. The great majority of under-developed countries were suffering from lack of foreign exchange, and in such a critical situation it would be unthinkable for his country, with its firm attachment to the principle of Latin American solidarity, to take a selfish attitude on such a vital issue.

4. The principles of draft resolution B could not be criticized, but the text—which represented rather the expression of a general concept than a resolution properly speaking—was lacking in precision. The whole problem was so intricate that a request for further study by the Fiscal Commission would reflect the Council's own sense of responsibility. Although he would vote for draft resolution B if the Cuban proposal was rejected, he nevertheless continued in his belief that it would be advisable to refer it back to the Fiscal Commission.

5. THE PRESIDENT explained that, faced with the Fiscal Commission's draft resolution B and the Argentine (E/L.517 and Corr.1) and Australian (E/L.518) amendments thereto, he was obliged, in spite of the questions raised by the Egyptian and Cuban representatives at the previous meeting, to comply with rule 66 of the rules of procedure. He would therefore ask the Council to consider, first, the Fiscal Commission's draft resolution B and the amendments thereto, the first of which consisted of the Argentine proposals contained in documents E/L.517 and Corr.1.

6. Mr. EL TANAMLI (Egypt) accepted the President's ruling, but thought that it would be advisable for the Legal Department to consider the question of the application of rule 66 when the Council had before it both a draft resolution from another body and one submitted by a delegation. To accept the principle that the resolutions of other bodies automatically enjoyed priority would be contrary to the spirit of rule 66, since it would make it impossible for a delegation to obtain priority for its own resolutions.

7. Mr. ADARKAR (India) asked the Argentine representative whether the three paragraphs of his amendment were to be taken as a whole. If so, he considered that the resolution, as amended, would be loaded against the Fiscal Commission, since, in effect, the Council would be asking the Commission not only to continue its study, but to accept beforehand certain conditions. There was, moreover, a contradiction between the implication in the third paragraph that the Fiscal Commission had not carried out its task in full and the changes proposed in the other two parts.

8. Mr. BUNGE (Argentina) said that, although his amendment should certainly be read as a whole, he could not see that it was in any way inconsistent or that it prejudged the work of the Fiscal Commission, which, in the light of its experience and knowledge, would remain completely free to form its own judgment. The basic concept of his amendment was similar to that of the Cuban resolution, and he was submitting it merely in order to clarify that text. As regards the proposal for lower taxation rates, he would point out that for defla-

tionary purposes it might be necessary in certain cases to raise the rates. He could only refer to the points he had already made at the previous meeting, observing that it was a question rather of special facilities than of lower taxation rates.

9. After Mr. STERNER (Sweden) had pointed out that paragraph 1 of the Argentine amendment would be more appropriately submitted in substitution of paragraph (d) rather than paragraph (c) of draft resolution B, Mr. WYNNE (United States of America), who agreed with the previous speaker, observed that in fact the United States Government did give incentives to capital investment in foreign countries, and that the United States representative in the Fiscal Commission had explained that further measures of the same order were under consideration. It was chiefly a question of degree, for it was possible to tax income produced in foreign countries without abandoning the principle of incentives. The principle that exporting countries should forgo the right to apply the rates of taxation they considered appropriate was unacceptable, and, since the Argentine amendment was to be taken as a whole, his delegation would vote against it.

10. Mr. ADARKAR (India) said that, in view of the Argentine representative's clarification, the question to be decided was whether the Fiscal Commission should be asked to reconsider the problem, for unless that point was settled, the other parts of the amendment would be out of focus. His delegation considered that the Fiscal Commission had done excellent work, and he would remind the Council that draft resolution B, which had been virtually unanimously approved, was in essence a compromise. He had no strong feelings either way, but did not think it advisable to refer the question back to the Fiscal Commission unless there were overwhelming reasons for justifying that rather uncomplimentary step.

11. After a discussion in which Mr. RIVAS (Venezuela), Mr. BUNGE (Argentina) and the PRESIDENT took part, Mr. LEGATTE (France) suggested that the different paragraphs of the Argentine amendment (E/L.517) could be brought into line if paragraph 1 (E/L.517/Corr.1) were amended to read as follows:

"That the taxation facilities of all kinds granted by countries in process of development in order to stimulate the flow and investment of capital from foreign countries may be ineffective *unless a suitable system of taxation is applied to the income earned by their nationals in such countries.*"

In that way, the Council would not be making any *a priori* assertion, but would leave it to the Fiscal Commission experts to find a suitable system of taxation.

12. After Mr. STERNER (Sweden), supported by Mr. de KINDER (Belgium), had repeated his objection to the Argentine text for paragraph (c) on the ground that it covered the same points as paragraph (d) of the Fiscal Commission's draft resolution, and had pointed out that the French amendment, while not remedying that defect, was just as vague as the original Argentine draft, Mr. BUNGE (Argentina) said that, in view of the

difficulties of interpretation, his delegation would withdraw paragraph 1 of its amendment.

13. Mr. WARNER (United Kingdom) observed that the Argentine amendment was unnecessary, since it was covered by the Fiscal Commission's draft resolution E, part II.

14. Mr. ADARKAR (India) maintained that no good reason had been adduced for referring the matter back to the Fiscal Commission. No new factual, statistical or legal evidence requiring fresh investigation had been brought forward to justify any request for studies other than those to which the Fiscal Commission had already been committed in category A, paragraph (b), of the *ad hoc* projects it was already studying. The divergence of views which undoubtedly prevailed in the Council, having already been reflected in the Fiscal Commission's debates, could not be regarded as constituting new material.

15. Mr. BUNGE (Argentina) replied that category A, paragraph (b) of the *ad hoc* projects provided only for the continuation of studies on the effects of taxation on foreign investments; that was only one aspect of the principle set forth in resolution B. Although his delegation felt that it had enough information to vote for that principle, other delegations had said that they were not yet prepared to vote for it.

16. Mr. HSIA (China) pointed out that the new element introduced by the Argentine amendment (E/L.517) was the request that the Fiscal Commission should report to the Council in the following year. Really important new elements would be unlikely to arise in that period; and, if they did, the Commission would not have time to study them thoroughly. He would therefore have to abstain from voting on the Argentine amendment.

17. Mr. LOPEZ (Philippines) could not agree with the view apparently taken by the Indian representative that the Fiscal Commission's study was complete and that resolution B could not be improved. Paragraph 1 of the operative part of resolution B merely reaffirmed a general principle that was in any case generally accepted, but failed to affirm the principle that capital-exporting countries should not tax income earned abroad. It followed that the Argentine amendment calling for further study was perfectly in order, and was not inconsistent with resolution E.

18. Mr. ADARKAR (India) explained that he had not meant that no further study would be possible, but he did not see just what was to be studied. The general principle that the country in which income arose had an undoubted right to tax income implied that capital-producing countries had a similar right, but the country in which the income arose had, according to resolution B, the primary right, because its resources were being utilized. The Fiscal Commission had dealt only with the general principle. He had yet to hear what other studies were required.

19. Mr. WYNNE (United States of America) agreed with the United Kingdom representative that the question of further study by the Fiscal Commission was

covered by resolution E, part II, under which the Secretariat could develop a far-ranging investigation. By way of reconciling the divergent views on a very complex subject, he proposed the addition to the preamble of resolution B of a further paragraph (f) to read as follows:

“(f) That further study and analysis of the problem referred to in paragraph (d) above is needed before governments can be prepared to take a definitive position on this matter.”

The following paragraph 3 should then be added to the operative part:

“3. 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 Economic and Social Council after the next meeting of the Fiscal Commission.”¹

20. The United States Government attributed the greatest importance to the economic development of under-developed countries, and had taken a number of practical steps to that end. His Government, as the United States delegation had previously stated, was also considering what measures it might find feasible and advisable to adopt as further tax inducements to foreign investments. Those measures included those proposed in the Cuban draft resolution (E/L.510). The problems involved were, however, so difficult and complex as to require further study.

21. Mr. BUNGE (Argentina) said that the new paragraph for the preamble proposed by the United States representative was acceptable, but the proposed operative paragraph seemed to weaken the resolution. The Argentine delegation had submitted its amendment because, like the Philippines delegation, it had felt that it was useless, and possibly dangerous, to reaffirm a generally accepted principle, as the Fiscal Commission had done in paragraph 1 of the operative part. Paragraph 2 of the operative part was really unworthy of a technical commission, which should have submitted a recommendation for technical rather than sympathetic consideration of the problem.

22. Mr. ADARKAR (India) objected that the United States amendment merely replaced draft resolution E. The reference to paragraph (d) was unnecessary, because the Fiscal Commission was in any case intending to work along the lines suggested therein.

23. Mr. NUÑEZ PORTUONDO (Cuba) thought that the debate had thrown sufficient light on the principle involved for the vote to be taken immediately. He would vote for the Argentine amendment (E/L.517 and Corr.1) and against the United States amendment.

24. Mr. PEROTTI (Uruguay) did not think that the Council, a mainly political body, could succeed in finding a compromise solution, although the United States

proposal had introduced an interesting new approach. It would accordingly be better for the whole subject to be referred back to the Fiscal Commission for further study.

25. Mr. RIVAS (Venezuela) believed that the real cause of disagreement was that some members thought that the idea expressed in the operative part of the United States amendment did not wholly square with the preamble. That paragraph might therefore be set out as a new paragraph (g) of the preamble, and a new single paragraph might be substituted for the existing two paragraphs of the operative part, to read somewhat as follows: “Recommends that the Fiscal Commission pay special attention to the continuation of its studies of the problem mentioned in paragraph (d) and report on the matter to the Council after its next meeting”. That implied recognition that the Fiscal Commission's study was not regarded as complete, and gave specific terms of reference for its further studies.

26. Mr. LOPEZ (Philippines), supporting the Venezuelan proposal, observed that the Council was thereby simply informing the Fiscal Commission of the lines along which it would be interested to receive information.

27. The PRESIDENT remarked that the Council would be unable to take action at the current meeting, as the United States proposal had not yet been circulated. He suggested that the debate on Fiscal Commission resolution B and the amendments thereto be suspended and resumed by the Economic Committee, and thereafter be referred back to a plenary meeting, the Council meanwhile turning to the remainder of the Fiscal Commission's resolutions.

It was so agreed.

Draft resolution C of the Fiscal Commission was adopted by 15 votes to none, with 2 abstentions.

Draft resolution D was adopted by 16 votes to none, with 2 abstentions.

Draft resolution E part I was adopted by 16 votes to none, with 2 abstentions.

28. Mr. MOROZOV (Union of Soviet Socialist Republics), referring to draft resolution E, part II, said that he could not accept the formulation of some of the points in the list included in section VII of the Fiscal Commission's report on its fourth session, but he would not oppose the list as a whole.

29. Mr. EL TANAMLI (Egypt) observed that as the United Kingdom representative had suggested, any decision about resolution B would probably affect resolution E, part II.

30. The PRESIDENT proposed that voting on resolution E, part II, should be deferred until after the Economic Committee had reported on draft resolution B.

It was so agreed.

The meeting rose at 12.45 p.m.

¹ Subsequently distributed as document E/L.520.