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USE OF INCOME DERIVED FROM THE STAFF ASSESSMENT PLAN

Report of the Fifth Committee

Rapporteur: Mr. Mauro MENDEZ (Philippines)

1. The General Assembly, at its 530th plenary meeting held on 30 September 1955, decided to place on the agenda of its tenth session the item "Use of income derived from the Staff Assessment Plan: report of the Secretary-General" and to refer it to the Fifth Committee for consideration. The Committee considered the item at its 518th and 521st meetings held on 29 November and 2 December 1955.
2. The Committee had before it a report (A/2946) submitted by the Secretary-General, pursuant to General Assembly resolution 893 (IX) of 17 December 1954, on his negotiations with those Member States which at that time had not yet become parties to the Convention on the Privileges and Immunities of the United Nations, or adopted alternative measures to afford appropriate relief to all United Nations officials in the matter of national income taxation. The Secretary-General's negotiations involved sixteen Member States. The Committee was informed that since the date of the Secretary-General's report, one Member State, Czechoslovakia, had acceded to the Convention and that as regards the other fifteen Members, the situation remained unchanged, although in some cases steps were being taken with a view to eventual accession.
3. The Committee also had before it a further report (A/C.5/643) by the Secretary-General in which he submitted proposals which were designed to achieve a solution of the problem of national taxation levied on the emoluments paid to staff members. Broadly stated, the proposals of the Secretary-General involved the establishment of a tax equalization fund comprising an individual account for each Member State to which would be credited:

- (a) The Member State's share of the income from staff assessment, in accordance with the scale of contributions; and
- (b) The Member State's share of the amount of \$1,500,000 proposed for transfer from the Working Capital Fund.^{1/}

During each of the years 1956, 1957 and 1958 the Member State's share (under (a) above) of the current year's income from staff assessment and one-third of its share (under (b) above) of the surplus account would be debited with the amount of the income tax levied by that Member State on emoluments paid by the United Nations, and any balance remaining to the credit of the Member State would be applied against the budgetary contributions due from it. Thus, a Member State exempting its nationals in the Secretariat from taxation on the emoluments under reference would continue, as heretofore, to receive credit for its share of staff assessment income. In addition, it would recover over a period of three years its share of the surplus account of \$1,500,000. In an annex to his report, the Secretary-General had indicated the consequential changes which would become necessary in existing authorities should the General Assembly decide to establish a tax equalization fund in accordance with his recommendation.

4. The Advisory Committee on Administrative and Budgetary Questions commented on the Secretary-General's proposals in its nineteenth report (A/3035) to the tenth session of the General Assembly. While, in its opinion, the ideal solution to the problem would have been for all Member States to accede to the Convention, the Advisory Committee was of the view that the Secretary-General's proposals represented a practical administrative solution of a question which, over a period of ten years, had engaged the continuous attention of the General Assembly. Subject, therefore, to the observations contained in paragraphs 4-7 of its report, the Advisory Committee recommended, for adoption by the General Assembly the substance of the proposals set forth in the annex to the report (A/C.5/643) of the Secretary-General. It further suggested that, with specific references to

^{1/} The amount of \$1,500,000 represents prior budgetary surpluses transferred during the years 1951 and 1952 to the Working Capital Fund in accordance with General Assembly resolutions 585 (VII) and 676 (VIII).

taxes that might be levied by a provincial authority or constituent State (for example, the State of New York), the Secretary-General should study the matter further and report to the General Assembly at its eleventh session on measures designed to achieve a solution of the problem.

5. A number of representatives who took part in the discussion believed that the General Assembly had acted wisely at its ninth session in leaving it open to the Secretary-General to continue his negotiations with Member States concerned, and particularly with the Government of the United States of America. While some representatives believed that accession on the part of all Member States to the Convention on Privileges and Immunities was the only ideal solution, they were prepared to agree with the opinion which was generally held in the Committee that the proposals put forward by the Secretary-General went a long way to provide a practical solution to the problem. In this connexion, the Committee noted that fifteen Member States had not yet acceded to the Convention but that several of these Members had made arrangements granting to United Nations officials exemption from national income taxation.

6. The representative of the Union of Soviet Socialist Republics believed that all Member States should comply with General Assembly resolution 78 (I) and make the necessary arrangements to exempt their nationals who were United Nations staff members from national income tax. He noted that, at the ninth session of the Assembly his delegation had approved in principle the Secretary-General's proposals^{2/} presented at that time, provided they were implemented forthwith. He did not believe, however, that these proposals would in themselves wholly solve the question of double taxation. Given the fact that over the past ten years the Organization's budget had been increased to the extent of more than \$10,500,000 in the provision of credits for reimbursement of tax, his delegation considered that no further demands at all should be made upon Member States for this purpose and that the budget surpluses from previous financial years, in the amount of \$1,500,000, should be credited to the Member States in calculating their 1956 contributions. Other delegations, in commenting on this observation, recognized that, by reason of the inability to find a solution to the question

2/ See Official Records of the General Assembly, Ninth Session, Annexes, agenda item 38, pages 20-22, document A/C.5/584.

of double taxation, the budget of the Organization had needed to provide the requisite funds for reimbursement, but considered that it should not be forgotten that the Government of the United States had shown a high degree of generosity in the extent to which it had contributed to the extra-budgetary programmes of the United Nations and had made possible by that fact the carrying out of those important activities.

7. The Fifth Committee took note of the Advisory Committee's observation that, by 1958, after which year no more credits would be available in the surplus account part of the Tax Equalization Fund, the proposed plan would meet the situation fully only if each Member State's share of staff assessment income did not fall short of the amount to be reimbursed in respect of income taxes levied by that Member State. It was accordingly stressed that, while there was no absolute certainty that the budgetary problem in respect of national taxation would be finally removed, this problem would be resolved if in the course of the next two or three years there was either a reduction of United States taxation or an increase in United Nations staff assessment. The opinion was generally shared, however, that it would serve no useful purpose to prejudge the situation that was likely to exist by 1958, particularly in view of other possibilities that were open to the Member States concerned and to the Secretary-General of keeping the working of the plan under constant review and, in the event of adverse developments, of taking appropriate steps.

8. The representative of the United States of America, after recalling the commitment given in 1954, stated that, while his Government was unable to accede to the Convention on Privileges and Immunities, it was ready to accept the revised proposals of the Secretary-General on the understanding, however, that the amount standing to its credit in the tax equalization fund would be debited only to the extent of the amount paid to staff members as double taxation relief in respect of taxes levied by the United States Government. He accordingly proposed (A/C.5/L.363) that the draft resolution contained in the annex to the report (A/C.5/643) of the Secretary-General should be amended so as to exclude from the charges against credits in the tax equalization fund any amounts paid by way of double taxation relief in respect of local or State income taxes. The proposed amendment would not, in the opinion of the United States representative, prejudice whatever final solution of the problem of State income taxation the

General Assembly might see fit to adopt, since no difficulties would in fact arise in 1956, provided the Assembly appropriated the sum of \$1,630,000 requested by the Secretary-General for tax reimbursement purposes. This latter sum, it was pointed out, included provision in respect of State income taxes for 1955, while actual reimbursement of such taxes for 1956 would not need to be made until early in 1957, by which time the study of this problem which the Advisory Committee had suggested would have been completed and the relevant report considered by the General Assembly at its eleventh session.

9. The representative of the Secretary-General informed the Committee that in the Secretary-General's proposals it had been contemplated that, in accordance with past practice and with the specific interpretation made by the General Assembly in 1949, reimbursement of State income taxes would be provided for to the same extent and in the same manner as reimbursement of Federal income taxes. The Secretary-General was, nevertheless, aware that the question of State income taxes raised certain issues of principle and policy and that this aspect of the problem might accordingly merit further study. The Secretary-General's concern was to find a solution which would, to the extent possible, meet existing difficulties while at the same time maintaining the principles upon which the General Assembly had already declared itself. Should the United States amendment be approved, it should in the Secretary-General's view be understood that its acceptance would not modify in any way the Assembly's prior decision that such taxes were reimbursable and that, in the absence of any decision to the contrary, such reimbursement would become a charge on the regular budget instead of a charge against the tax equalization fund. There were, however, a number of alternative arrangements that might be envisaged for dealing with this problem within the framework of the plan which the Secretary-General had submitted and he would undertake to make definitive proposals to the Assembly at its next session in the hope of reaching a final and complete solution consonant with the interests of all Member States.

10. After further discussion the Committee adopted, by 35 votes to 5, with 6 abstentions, the amendment proposed by the United States of America to insert after the words "national income taxes" in paragraph 4 of the draft resolution establishing a tax equalization fund (A/C.5/643, annex, section 2) the words "excluding any local or State income taxes".

11. The Chairman, before putting to the vote the draft resolutions contained in the annex to the Secretary-General's report (A/C.5/643), as amended by the proposal of the United States of America, drew the attention of the Committee to additional drafting changes required in the text submitted. These would provide for the insertion of the words "not otherwise disposed of by specific resolution of the General Assembly" after the words "staff assessment" in the amendment proposed to article 7 of resolution 359 (IV) in section 2 of the annex, and a similar insertion after the words "Staff Assessment Plan" in paragraph 1 (a) of the draft resolution establishing the tax equalization fund, as set forth in section 3. He further pointed out that adoption of the draft resolution establishing the tax equalization fund automatically would imply approval of sections 1, 2, 4 and 5 of the annex. The draft resolution, as amended, was adopted by the Committee by 42 votes to 5, with no abstentions.

12. The Committee also approved, by 40 votes to 5, with 2 abstentions, a supplementary appropriation in the sum of \$1,630,000 for the purpose of reimbursement of national and State income taxes on the 1955 salaries and emoluments of staff members.

13. The Fifth Committee accordingly recommends to the General Assembly adoption of the following draft resolutions.

USE OF INCOME DERIVED FROM THE
STAFF ASSESSMENT PLAN

I

ESTABLISHMENT OF A TAX
EQUALIZATION FUND

The General Assembly

Resolves that:

1. A Tax Equalization Fund shall be established as from 1 January 1956 to which shall be credited:

- (a) All revenue derived from the Staff Assessment Plan not otherwise disposed of by specific resolution of the General Assembly;
- (b) The sum of \$1,500,000 standing to the credit of Member States in the Working Capital Fund, as at 31 December 1955, representing the amount derived from transfer of budget surpluses in prior years;

2. The credits to the Tax Equalization Fund under paragraph 1 (a) above shall be recorded in sub-accounts of the Fund in the name of each Member State in the proportion of its contributions to the budget for the financial year concerned;

3. The credit to the Fund under paragraph 1 (b) above shall be recorded in the sub-accounts of the Member States in the Fund in the amounts established as their specific credits in the said amount of \$1,500,000 as set out in schedule G^{1/} of statement III of the financial accounts of the United Nations for the year ended 31 December 1954;

4. There shall be charged against the credits of the appropriate Member States under paragraph 2 above all amounts paid under resolution (X) by way of double taxation relief in respect of national income taxes, excluding any local or State income taxes, levied on staff members by the Member States concerned during each financial year provided that, should the credit under paragraph 2 be insufficient for this purpose, all such payments made after the credit has been liquidated shall be charged to the credit of the appropriate Member State under paragraph 3;

5. The Secretary-General may record obligations against the credits under paragraphs 2 and 3 above to the extent that he anticipates that they will be necessary to cover liabilities for double taxation relief;

6. The amount credited to the sub-accounts of each Member State in the Tax Equalization Fund under paragraph 2 above, less the amounts charged or obligated against that sub-account under paragraph 4, shall be set off against the contributions due from the Member State concerned in accordance with the provisions of financial regulation 5.2 (e);

7. For each of the financial years 1956, 1957 and 1958, one-third of the amounts credited to the sub-account of each Member State in the Tax Equalization Fund under paragraph 3 above, less the amounts charged or obligated against that sub-account in the financial year concerned, shall be set off against the contributions due from the Member State concerned in accordance with the provisions of financial regulation 5.2 (e).

1/ See Official Records of the General Assembly, Tenth Session, Supplement No. 6, document A/2901, page 30.

II

AMENDMENT TO THE FINANCIAL REGULATIONS OF THE
UNITED NATIONS (REGULATIONS 5.2 AND 7.1)

The General Assembly

Amends the Financial Regulations of the United Nations by the addition of the following sub-paragraphs to the provisions of regulations 5.2 and 7.1, with effect from 1 January 1956:

(i) Add to financial regulation 5.2 a sub-paragraph (e) to read:

"Members' credits in the Tax Equalization Fund estimated to be not required to meet charges for tax refunds during the year, and any adjustments in the estimated credits previously taken into account";

(ii) Add to financial regulation 7.1 a sub-paragraph (d) to read:

"Revenue derived from the Staff Assessment Plan".

III

TAX EQUALIZATION - STAFF ASSESSMENT PLAN: AMENDMENT OF
RESOLUTION 359 (IV) OF 10 DECEMBER 1949

The General Assembly

Resolves that the provisions of General Assembly resolution 359 (IV) of 10 December 1949 (Tax Equalization - Staff Assessment Plan) be amended as follows, with effect from 1 January 1956:

(i) By the amendment of article 7 to read as follows:

"That revenue derived from staff assessment not otherwise disposed of by specific resolution of the General Assembly shall be credited to the Tax Equalization Fund established by resolution (X)";

(ii) By the addition of a new article 8 reading as follows:

"Where a staff member is subject both to staff assessment under this plan and to national income taxation in respect of the salaries and emoluments paid to him by the United Nations, the Secretary-General is authorized to refund to him the amount of staff assessment collected from him provided that:

(a) The amount of such refund shall in no case exceed the amount of his income taxes paid and payable in respect of his United Nations income;

(b) If the amount of such income taxes exceeds the amount of staff assessment, the Secretary-General may also pay to the staff member the amount of such excess;

(c) Payments made in accordance with the provisions of this article shall be charged to the Tax Equalization Fund."
