VII. MEMORANDUM SUBMITTED BY THE U.A.R. DELEGATION AT THE SIXTH SESSION, CAIRO (1964)

The United Arab Republic Delegation during the fourth session of the Asian-African Legal Consultative Committee submitted a memorandum on Double Taxation. The Delegation explained the views in Arab Tax Legislation and referred to the efforts made in the move towards avoidance of double taxation.

The Delegation points out the fact that the U.A.R. has contributed effectively to avoid and alleviate double taxation. Our State has passed the Law No. 542 for the year 1955 according to which the President can authorise the conclusion of bilateral or collective treaties to avoid double taxation on the basis of reciprocity. In compliance with this law, agreements were concluded between the U.A.R. and Sweden, German Federal Republic, United States of America, Austria, Italy, Norway and Finland.

The report of the Commission points out that double taxation should be eliminated on the basis of the exemption method and not of the tax credit method and that the country of origin has the sole right to tax the income. The problem of double taxation arises from the claim of the country of residence to tax income of foreign origin.

The U.A.R. Delegation has the pleasure, during the present session, to present its recommendations urging the Committee to take uniform and international action in this respect.

It is fairly desirable to dispel the fog of differences in claims and arguments regarding the principle of double taxation.

In order to achieve this, general and uniform rules can be made internationally in application of the modern theory of unifying the laws and making them identical. Such a step will safeguard the interests of the investor who provides his capital and business experience. Also, the country of origin and the country of residence will benefit too. It is also necessary to define clearly what is: Double Taxation—Country of Residence—and Country of Origin.

As an example, we are in favour of the definition given by Griziotte : saying that 'double taxation' is the case of imposing more than one tax on the same revenue for the same period, when there is only one reason justifying part of the revenue. We also accept the definitions of the 'country of origin' and the 'country of residence' mentioned in the Commission's memorandum.

The country of residence is the country in which the investor resides and provides capital for international investment. The country of origin is the country in which the capital is invested and where the income originates. We also stress the need for setting up a committee of taxation experts from the contributing countries to give model definitions of taxation technical terms to avoid any double taxation which may arise as a result of misinterpretation of such terms by both the country of origin and the country of residence.

In the agreements, which we mentioned before, the parties defined some technical terms, e.g.

1. The term "Person" includes any natural person, company and any unincorporated body of persons.

2. The term "Company" means any body corporate and any association or other like entity which is treated as a body corporate for tax purposes.

3. The term "Resident in Egypt" means :

(a) Any company having its principal seat of control and management in Egypt.

(b) Any other person who is resident in Egypt (by reason of abode or sojourn) for the purposes of Egyptian tax and not resident in the foreign country (by reason of abode or sojourn) for the purposes of foreign tax.

4. The term "Permanent Establishment" means a branch, management, factory, office, oilfield, mine, quarry or other place of natural resources subject to exploitation, farm, plantation, workshop, warehouse, installation, or other fixed place of business in which the business of the enterprise is wholly or partly carried on. It also includes a place where building construction is carried on for a period of at least six months. The term shall also include an agent or an employee who has, and habitually exercises, an authority to negotiate and conclude contracts on behalf of an enterprise of one of the territories or has a stock of merchandise from which he regularly files orders on its behalf.

In this connection :

(a) An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a bonafide broker or general commission agent acting in the ordinary course of his business as such ;

(b) The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise for the enterprise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise;

(c) The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

5. The term "Royalty" means any royalty or other amount paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trade-mark, or other like property, but does not include any royality or other amount paid in respect of the operation of a mine or quarry or of any other extraction of natural resources or rents or royalties in respect of cinematograph film.

6. The term 'nationals' means :

(a) All Egyptian subjects whether residing in Egypt or not, and

(b) All legal persons, partnerships, associations and other entities deriving their status as such from the law in force in Egypt.

In underdeveloped countries of Asia and Africa, because of the need of economic development and aids, it is advisable to exempt the investor from the tax of the country of residence ; therefore it is claimed to tax his income only in the country of origin. Such exemption may prejudice the economy of the country of residence. On the other hand, countries of origin will benefit from such exemption which may result in the escape of capital investments from countries of residence where the rate of taxation is high to lighter taxed countries of origin.

Therefore, we suggest that double taxation system can be applied on condition that a balance between the two taxes can be maintained and that the country of origin and the country of residence should not charge the income of the investor with more than he bears in favourable conditions.

So we propose that parties to bilateral treaties should accept the reduction made by the country of residence of all taxes paid abroad on incomes derived from capital invested in the countries of origin. It should be considered that rates of taxes levied by member countries should be uniform and less than those levied on the total revenue in such a way as to allow for a reduction from the tax and to leave a reasonable margin (surplus) of tax allocated to the country of residence.

Some examples for the exemption from taxes were given in the agreements which were concluded between the U.A.R. and the countries we mentioned before, such as :

1. Dividends paid by a company resident in the foreign country to a resident of Egypt shall be exempt from foreign tax.
2. Dividends paid by a company resident in Egypt to a resident of foreign country shall in Egypt be subject only to the tax on income derived from movable capital, the supplementary taxes and the defence tax (which taxes shall be deducted at source) provided that such dividends shall be deducted from the amount of the company's taxable income or profits subject to the tax chargeable in respect of its industrial and commercial profits if such dividends are distributed out of the taxable profits of the same taxable year and not distributed out of accumulated reserves or other assets.

3. Income of whatever nature derived from real property within one of the territories by a resident of the other territory shall be exempt from tax in the last mentioned territory.
4. Any royalty or other amount paid in respsct of the operation of a mine or quarry or of any other extraction of natural resources within one of the territories to a resident of the other territory shall be exempt from tax in the last mentioned territory.
5. A resident of one of the territories shall be exempt in the other territory from any tax on gains from the sale, transfer, or exchange of capital assets.
6. Where a resident of one of the territories shows proof that the action of the tax authorities of the contracting parties has resulted or will result in double taxation contrary to the provisions of this agreement he shall be entitled to present his case to the party of which he is a resident. Should his claim be deemed worthy of consideration, the competent authority of the party to which the claim is made shall endeavour to come to an agreement with the competent authority of the other party with a view to avoidance of double taxation.

Cooperation in economic, commercial and industrial fields will provide undoubtedly better chances for international peace, because we regard the conclusion of agreements by many countries for safeguarding their mutual interests, a constructive step in consolidating peace among them. Moreover, assistance is provided for African and Asian countries in the form of a flow of capital from industrial countries with a high standard of living. This capital is invested in their economic development. We should also reiterate the fact that this essential step will result in economic stability. This trend will also relieve the investor from the burden of double taxation as each country sacrifices part of its rights for the sake of the other country.

To achieve cooperation, minor sacrifices have to be made. Such sacrifice comes from the State for the sake and good of the individual and not the reverse.

Therefore, we sum up the following recommendations :

(a) Uniform definitions of technical terms in taxation to become internationally accepted.

(b) The adoption of standard rules and regulations for all kinds of taxes in such a way is to avoid any differences between taxes levied in the countries of origin and countries of residence.

Double taxation can be avoided by agreement between the parties concerned upon a reduction to be made by the country of residence of all taxes paid abroad on incomes derived from capital invested in the country of origin. Rates of taxes should be uniform in all member countries of the treaty, and should be lesser than the rates of taxes levied on the total revenue, allowing for a reasonable margin to be left for the country of residence.

VIII. REPORT OF THE SUB-COMMITTEE

Appointed at the Sixth Session, Cairo (1964)

1. The Sub-Committee was unable to meet until the 2nd March, 1964.

2. At this meeting the Sub-Committee noted with satisfaction the excellent Study and topics for discussion prepared by the Secretariat. The delegate of the U.A.R. presented a memorandum on the subject. The memorandum *interalia* proposed that the Committee should endeavour to develop uniform definitions of the fundamental concepts underlying Double Taxation agreements concluded by participating countries, such as "Country of Residence" and "Country of Origin". It advocated the creation of a Committee of Taxation Experts to evolve model definitions of technical terms employed by participating countries. Such developments might facilitate the adoption of standard rules and regulations for all kinds of taxes in such a way as to avoid any differences between taxes levied in the countries of origin and of residence respectively. The Sub-Committee also received a note from the delegation of Ceylon containing supplementary answers to the U.N. questionnaire on Double Taxation.

3. The Sub-Committee had a preliminary exchange of views on the objective of the Committee in its consideration of the problem of Double Taxation. It was common ground that the Double Taxation Agreements provided a practical solution of a financial problem arising from the economic relations between two countries, and for this reason the bilateral approach has prevailed. However, it was agreed that an exchange of views on the techniques employed by participating countries, their experiences and practices in similar circumstances would encourage the development of common approach and perhaps

the settling of a model agreement mutually beneficial to the Asian and African countries.

4. However, in the absence of the views of certain participating countries at this stage, the Sub-Committee agreed that it was not possible to discuss the matter in detail at this Session. It agreed to recommend to the Committee that such detailed discussion should be postponed until the next session. Meanwhile, the Secretariat should continue its excellent work on the subject. In particular, it was agreed that the Secretariat should complete the compilation of information on the rules, regulations and practices of all participating countries and all agreements concluded by them.

Sd/- Ofosu-Amaah (Ghana), Chairman
Sd/- G.A. Shah (India)
Sd/- M. Hazumi (Japan)
Sd/- M. Abdul Salem (U.A.R.)

IX. REPORT OF THE SUB-COMMITTEE

Appointed at the Seventh Session, Baghdad (1965)

INTRODUCTION

This subject was referred to the Committee by the Government of India under Article 3 (c) of the Statutes for exchange of views and information between the participating countries. The subject was considered by two Sub-Committees appointed at the Fourth and Sixth Sessions, but the matter was deferred until this Session for lack of complete information regarding the laws, practices and bilateral agreements of the participating States. This Sub-Committee was also hampered in its deliberations because of incomplete information. The subject is too complex to admit of easy solution. The conflicting interests of the countries, variegated patterns of their taxing laws, differing tax structures and absence of a universally acceptable sytem of tax distribution among various countries make the task of proposing any model agreement on this subject difficult. Nevertheless, having regard to the vital importance of the subject to the developing countries for economic cooperation, expansion of trade and business, exchange of technical knowledge and cultural activities, flow of capital and business enterprises, the Sub-Committee thought that a beginning should be made by formulating certain broad principles for consideration of the Governments of the participating States. In formulating these principles the Sub-Committee found the material collected by the Secretariat very useful and informative. The Sub-Committee wishes to place on record its appreciation of the labours of the Secretariat.

GENERAL PRINCIPLES

In order to solve the problem of double taxation in an effective way it is necessary to lay down certain general principles which should govern the tax laws of all the countries. These principles are universally accepted in most of the bilateral agreements entered into by the member countries and other non-member countries. These may be stated in general terms as follows:—

(1) The taxation of income shall be governed by the laws of the country except where provision to the contrary is made by express agreement.

(2) *National treatment clause*—The Contracting States shall not impose upon nationals of other countries more burdens of taxes than they impose upon their own nationals.

(3) These laws should contain a provision empowering the Government to enter into bilateral or multilateral agreements to grant relief against double or multiple taxation, unilaterally or on reciprocal basis.

(4) The most practical method for providing relief against double or multiple taxation is by entering into bilateral agreements which take care of the special relations between the two countries, but an attempt should be made to evolve a common pattern for economic development of all the participating countries on cooperative basis.

(5) In order to minimise the evil of double or multiple taxation on the same income, the participating countries should endeavour to enter into arrangements on the basis of:

(a) Allocation of sources of income in respect of the categories of activities where the loss and gain would be substantially equal, having regard to the state of trade relations between the two countries.

(b) In other cases where the same income is taxable in two countries, system of tax credits or tax rebates should be introduced.

(6) In granting the tax credits any special tax concessions, tax holidays or development rebates granted by one country as an incentive to industrial development or export trade, should not be taken into account and full credit should be given to the tax which is normally payable but for such special concessions. Otherwise the whole object of granting special concessions would be nullified and one taxing country would get undue advantage at the expense of the other.

(7) The participating countries should exchange information available to them under their respective laws in the normal course of administration to enable the contracting parties to carry out their obligations under bilateral agreements and prevent tax evasion. The information should be treated as secret and should not be disclosed to any person other than those concerned with assessment and collection of tax. No information shall be exchanged which would disclose any trade, business, industrial or professional secret or any trade process.

(8) Any tax payer may make representation to the competent authorities of the contracting State of which the tax payer is a resident if the action of the taxation authority of the other contracting State has resulted in double taxation contrary to the provisions of the Agreement. The competent authority shall have a right to present his case to the appropriate authorities of the taxing State and every endeavour should be made to come to an agreement with a view to avoid double taxation and ensure fair implementation of the Agreement.

PRINCIPLE OF ALLOCATION OF TAX JURISDICTION

The Sub-Committee is of the view that the most satisfactory method of granting relief against double taxation is exclusive allocation of specific sources of income to the country to which the source is allocated. This is because the participating countries are approximately at equal level of economic development and the contracting country would give up substantially the same amount of tax revenue which it would gain through the corresponding relinquishment by the other country. The psychological effect of exempting foreign income from the allocated sources would facilitate trade and business abroad with corresponding augmentation of invisible exports and exchange of resources. The Experts Committee appointed by the League of Nations, the International Chamber of Commerce, and the Secretariat of the Asian-African Legal Consultative Committee have favoured the principle of allocation of sources. This system has the added advantage of simplification of procedure by allocation of income to the country where it has originated. This system of allocation of sources cannot, of course, be all pervasive in respect of all types of income, but to start with it can be applied to certain specific categories which would not unduly deprive the State of any substantial revenue but ensure fair, equitable distribution and at the same time grant relief against double taxation.

The Sub-Committee recommends that initially the following categories of income should be allocated to the countries mentioned in the following paragraphs:—

(i) *Income from immovable property including rents, royalties and gains from sale, exchange or transfer.* This source should be allocated to the country of *situs*, that is, where the property is situate.

(ii) *Royalties and profits from operating of mine, quarry and other natural resources.* This should be allocated to the country where the operation is carried on.

(iii) *The income from operation of international flights and shipping* should be allocated exclusively to the country where the air corporation or the shipping company is incorporated and/or has its head office with substantial control and management. In the case of air corporations and shipping companies, ordinarily the country of incorporation and the country in which the head office is situate happen to be the same. If, however, this allocation is considered disadvantageous to certain participating members, the source should be allocated to the countries in which the income has originated.

(iv) *The salaries, wages and pensions paid out of Government funds to its nationals* in respect of services rendered to such Government shall not be subjected to tax in any other country. This exemption, however, shall not apply to services renderd in connection with trade or business carried on by such Governments for purposes of profit.

(v) *Salaries and remuneration paid for personal services* shall be taxed by the country where the services are performed except if the services are rendered for a period not exceeding six months on behalf of the resident of other country.

(vi) *Salary or remuneration earned by an individual who has been invited by a Government of other country or university, college or other educational institution for a period not exceeding two years* shall not be subject to tax of the inviting country.

(vii) *The remittances, grants, scholarships and other allowances to the students at recognised university, research institutions, religious or charitable organisations* etc. shall be exempt from tax in the receiving country.

(viii) *The royalties and profits earned by copyright, patent, trade mark, trade name,* etc. should be allocated to country where the profits are earned.

These categories of income have been allocated to the respective countries of sources in almost all the bilateral agreements entered into by member countries and other countries, and it appears to this Sub-Committee that it will be a useful pattern to follow in all future agreements.

TAX ON TRADE, BUSINESS, INDUSTRY AND OTHER PROFITS

The most important source of income, however, relates to trade, business and industry. Because of the diversity of business and industrial operations and the tax structure of different countries it is impossible to devise a single system to cover all aspects. Various methods of allocation of income, tax exemption, tax rebate, tax credit, etc. will have to be examined to arrive at an acceptable solution. In the absence of fuller information on the laws and practices of the participating countries the Sub-Committee recommends that this aspect of Double Taxation should be deferred till the next Session of the Commitee and the Secretariat should be requested to collect further material and formulate its proposals on this matter.

RECOMMENDATION

It is earnestly hoped that the participating countries would favourably consider the above proposals as a step forward towards international fiscal cooperation in minimising the undoubted evil of double taxation and furnish their views as also the necessary information to assist the Committee in the task of formulating agreed proposals to achieve further progress in this direction.

Sd/- Mr. G. A. Shah (India) Chairman
Sd/- Mr. K. Gyeke-Dako (Ghana)
Sd/- Dr. Hassan Al Haddawy (Iraq)
Sd/- Mr. A. Watanabe (Japan)

Sd/- SHAKIR AL-ANI
President
1-4-1965

X. REPORT OF THE SUB-COMMITTEE

Appointed at the Eighth Session, Bangkok (1966)

The subject of avoidance of Double Taxation was taken up for consideration in the Fourth,Sixth and Seventh Sessions of the Asian-African Legal Consultative Committee. The Sub-Committee appointed in the Fourth and Sixth Session to examine this problem were not able to make any concrete recommendations for want of complete information regarding the laws, practices and bilateral agreements of the participating countries and, therefore, further consideration of the subject was deferred to the Seventh Session.

At the Seventh Session held in Baghdad, the subject was again referred to a Sub-Committee for further examination as that Sub-Committee had to contend with the same difficulties as its predecessors because of want of complete information, but in view of the importance of the subject to the Member countries it decided to make a beginning by formulating certain broad principles on the subject of Double Taxation. The Committee took note of that report and decided to give consideration to it in the present Session in which this Sub-Committee has been constituted.

The task before this Sub-Committee is to consider and report on certain aspects of the subject which were left out of consideration by the Sub-Committee appointed in the last Session. It, therefore, becomes necessary to briefly outline the recommendations made by that Sub-Committee. Its most important recommendations were: (1) that the laws of the participating countries should contain provisions empowering their governments to enter into bilateral or multilateral agreements to grant relief against double or multiple taxation, (2) that bilateral agreements which take care of the special relations between contracting States afford the most practical method of avoidance of double taxation, (3) that such bilateral agreements should be on the basis of allocation of sources of income in respect of categories of activities where the loss or gain would be substantially equal, having regard to the state of trade relations between the two countries; and (4) that in other cases, where the same income is taxable in the two countries, system of tax credit or tax rebate should be introduced.

This Sub-Committee is also of the same view as its predecessor that the principle of allocation under which the exclusive taxing power of each type of income is allocated to one of the two contracting States in conformity with certain tax criteria such as *situs*, source, residence or domicile affords the most satisfactory and practical method of giving relief against double taxation. This implies that when income from a particular source is chargeable to tax both in the country of the source of the income and also in the country within which the tax payer is resident, the income will be taxed by the taxing authorities of the country to which that particular source is allocated and relief against double taxation will be given to the tax payer by the other contracting State either by exempting that income from local tax or by giving credit for the tax paid in the country of source. This principle has been recommended because as between countries which are more or less at an equal level of economic development each country would give up substantially the same amount of revenue that it would gain through corresponding relinquishment by the other country. The categories of income and the countries to which such income should be allocated are given in the previous Sub-Committee's Report.

The previous Sub-Committee was, however, unable to make any recommendation in the matter of avoidance of or relief against double taxation of income arising from trade, business, industry and other profits, and it was this aspect of double taxation that was deferred to the present Session of

the Committee. The present Sub-Committee, therefore, addressed itself to an examination of the problem of double taxation on the follwing types of income, that is to say : (a) income from industrial and commercial enterprises (b) income from movable capital, and (c) income from capital gains.

INCOME FROM INDUSTRIAL AND COMMERCIAL ENTERPRISES

In most of the bilateral agreements concluded between different countries for avoidance of double taxation the concept of 'permanent establishment, has been adopted. This means that the industrial and commercial profits accruing to an enterprise which is resident in one of the contracting States will be chargeable to tax in the other contracting State only if it carries on its business through a permanent establishment located in that other State. All fixed places of business having a productive character such as head offices, branches, factories, workshops, warehouses, mines, oil-wells, installations etc., have been considered as permanent establishments. On the other hand, establishments like store-houses, purchase offices, information bureaus, etc. which are not directly engaged in actual productive operations are not included in the expression 'permanent establishment' although they render general or particular services to the enterprise having no definite connection with the profit earned by it.

An agent acting in one of the contracting States for or on behalf of the commercial or industrial enterprise of the other contracting State has also been deemed to be a permanent establishment in the former State if he (1) habitually acts in the name of the enterprise concerned as a duly accredited agent and enters into contracts on its behalf or (2) acts as a salaried employee of the enterprise and habitually contracts business on its account or (3) habitually holds for purchase or sale stocks of goods belonging to the enterprise. However, most of the bilateral agreements also provide that an independent broker or a commercial agent who merely acts as an intermediary between the enterprise of one of the contracting States and a prospective customer in the other contracting State is not deemed to be a permanent etstablishment of that other State. Similarly, the existence in one of the contracting States of a company which is a subsidiary of a company resident in the other contracting State will not make the subsidiary company a permanent establishment of the parent company, the reason being that for the purpose of taxation the subsidiary company is itself a distinct and separate legal entity.

As already stated, the concept of permanent establishment has been adopted in most of the bilateral agreements concluded between member countries *inter se* or between non-member countries or between member countries and non-member countries for the purpose of avoidance of double taxation on income arising from industrial or commercial enterprises. The Sub-Committee realises that the taxation of income from industrial and commercial activities which are carried on in more countries than one having conflicting interests and different tax structures, differing methods of computation of the taxable income or of the tax chargeable, affords a difficult and complex problem and the Sub-Committee has also not found it feasible or possible to make a detailed study of the taxing provisions of different States. However, having considered the provisions contained in the bilateral international agreements reproduced in the Vol. II of the Briefs of Documents this Sub-Committee would recommend the acceptance by member countries of the concept of permanent establishment in the matter of taxation of income earned from industrial and commercial enterprises. A tentative definition of permanent establishment has been given in the *Annexure* for the consideration of the Committee.

INCOME FROM MOVABLE CAPITAL

Income from movable capital generally includes dividends paid by a company, interest on bonds, securities, notes or debentures issued by Government and other public or private

bodies or companies. According to the Secretariat of the Asian-African Legal Consultative Committee, the tax agreements do not follow any general principle in regard to taxation of movable capital. It is said that the conflict of interests between capital exporting countries and capital importing countries makes this one of the most difficult problems arising in connection with avoidance of double taxation. The interests of the capital exporting countries are served best by taxing the income from capital investments "at home of the creditor or beneficiary" while those of the capital importing countries, by taxation at home of the debtor, that is where the investment is used or the income is paid. "The practical solution of the problem depends in most cases on the extent to which each of the contracting States is willing to limit its right of taxation in order to facilitate international investment." The Sub-Committee is of the view that in the interest of expansion of trade and business and flow of capital amongst participating countries, the income from capital investments should be taxed in the country of residence of the debtor, in other words, in the country in which the the investment is used in priority to the country of residence of recipient of such income. Thus, dividends declared in a country should be treated as dividends from sources taxable within that country, interest on bonds, loans, securities and such other forms of indebtedness issued by government or local authorities or other corporate bodies of one of the contracting States should be taxed by that State as income from sources within that State.

INCOME FROM CAPITAL GAINS

The bilateral tax agreements which the Sub-Committee has examined adopt the principle that gains derived from the sale, transfer or exchange of immovable property are taxable in the country in which the property is situated. As regards the gains derived from the sale of capital assets other than immovable property certain agreements reserve the right of tax to the State in which the person earning the capital gain is resident. Other agreements stipulate that such gains may be taxed only in the country in which the capital asset is situated at the time of the sale, exchange or transfer.

The Sub-Committee would recommend that the capital gains derived from the sale or exchange of property or of any other capital asset may be taxed in the country of source, that is to say, in the country in which the capital asset is situated.

METHODS OF AVOIDING DOUBLE TAXATION

The bilateral agreements concluded between various countries adopt the principle that the country of the source of the income has the right to tax that income in priority to any claim by the country of residence of the tax payer. However, in granting relief against double taxation of foreign income, the countries of residence exercising their residual power of taxation do not follow a uniform practice. In some cases the foreign income is included in the total income of the tax payer and tax is charged thereon in the same manner as on the domestic income and credit is allowed for the tax paid in the country of source of the income against the tax payable on the total income. This is the tax credit method. In other cases the foreign income is taken into account only for the purpose of ascertaining the rate of tax applicable to the domestic income but thereafter no tax is charged on the foreign income. This is the exemption method. Some of the bilateral agreements particularly those concluded between India and Pakistan, and India and Ceylon follow a simplified pattern of allocation of sources. Certain incomes from personal services, income from securities and from immovable property are exclusively taxable in one of the contracting countries on the basis of source, *situs* or accrual as laid down in the schedules of these agreements. Other kinds of income, such as income from goods manufactured in one country and sold in the other or metal ores, mineral oils etc. extracted in one country and sold in the other, are partly taxable by one country and partly by the other according to an agreed proportion. If either country charges more than what

is specified in the schedules to those agreements, that country allows an abatement equal to the lower of the amount of the tax attributable to such cases in either countries. Under the agreement concluded between India and Japan the bulk of income comes under the tax credit method.

The Sub-Committee considers that if an accord can be reached between contracting States in the matter of allocation of sources of income between the States the exemption method makes for a complete elimination of double taxation. The tax credit method involves intricate procedure of calculating foreign tax to be credited against domestic tax on the total income including foreign income of the tax payer and even fails to give adequate relief from double taxation owing to differences of methods of computation of taxable income in the country of source and in the country of residence. In the Report of the Commission on Taxation of the International Chamber of Commerce, it is pointed out that the system of taxing foreign income and giving credit for foreign tax on it often fails to give adequate relief from double taxation owing to differences in the types of taxes levied in the country of residence and in the country of source, "in the bases of assessment of income-tax and owing to the existence of subordinate taxing authorities in addition to the central government." In the opinion of that Commission the only sure method of avoiding double taxation in the country of residence is to exempt foreign income from any proportional or progressive taxes. This Sub-Committee is likewise of the view that the exemption method makes for simplicity and is the simplest way of avoiding double taxation particularly in countries which are more or less at an equal level of economic development.

LOCAL TAX CONCESSION

If, however, the tax credit method is preferred as a means of giving relief against double taxation, this Sub-Committee would like to reiterate the principle formulated by the previous Sub-Committee in clause (6) of the General Principles. The