To the American reader the book is interesting because its rich comparative content demonstrates how much of the progress in legal thought was developed on this side of the Atlantic and testifies to the sturdiness and vitality of modern domestic legal scholarship. The work thus has much greater significance than mere applicability to a *jus tertii* and should be incorporated into the recommended intellectual diet of American lawyers and, especially, law students.

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UNITED STATES TAXATION OF NON-RESIDENT ALIENS AND FOREIGN CORPORATIONS. By Neil F. Phillips.* Canada, The Carswell Company, Limited, 1952. Pp. xxxviii, 379.

Mr. Phillips' book is a welcome addition to the rapidly growing literature on the United States income tax treaty program. While the purview of the book is United States "extra-territorial" taxation, the relative importance of the tax treaty in this area is apparent from the author's assignment of one half of the book to this subject matter.[1] Like other recent works on the general subject,[2] this book has been written for the use of the tax practitioner. It is assumed that "the reader will have at his side copies of the Internal Revenue Code and of the various income tax conventions."[3] Unlike his predecessors, Mr. Phillips has made a valid attempt to integrate the whole of federal tax law with the various specific provisions governing non-resident aliens and foreign entities, and the United States income tax treaties. This herculean task has been handled with dexterity and competence. While it is true that so large an undertaking in so little space must necessarily result in statements of "almost misleading simplicity,"[4] Mr. Phillips has properly admonished his reader. He has suggested in defense that it is better "to at least note the problems and the general rules than to disregard them completely."[5]

It is evident that this book deserves the plaudits of the profession as a guide through the many complicated and abstruse sections of the

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1. Pp. 181-317.
2. EHRENZWEIG AND KOCK, INCOME TAX TREATIES (1950); KOCK, THE DOUBLE TAXATION CONVENTIONS (1947).
3. P. vi.
4. P. v.
5. P. v.

various income tax treaties. However, it is not amiss to muse on the next level of development in the analysis of the United States income tax treaty program.

International double taxation of income has long been one of the recognized barriers to the unrestricted flow of capital and investment funds among nations. In this time of crisis when free nations are attempting to stand as one in their fight against Communism it is recognized that success, to a great extent, depends on the achievement of a unified free world economy unimpeded by artificial economic barriers. The United States has embraced this philosophy with respect to tax barriers to trade;[6] it has operated both unilaterally and bilaterally to overcome actual and potential double taxation deterring international trade and hampering the free world re-development and expansionary economic movement. In addition, America has rendered economic assistance to the western nations under the Marshall Plan and the Point Four program. However, failure to consider carefully the economic consequences of the various treaty provisions to taxpayers and governments has reduced the effectiveness of the tax treaty program in accomplishing the United States' political and economic objectives.

The creation of an effective tax treaty program coincides with the emergence of the United States as a world power, willing to assume its position of leadership on the international scene.[7] After World War II the federal government became interested in removing tax barriers to trade and in developing tax incentive devices as a means of stimulating private investment abroad for the reconstruction and development of the ravaged and underdeveloped countries.[8]

The first problem of principle to be considered in an attempt to alleviate or eliminate international double taxation is that of defining proper tax jurisdiction. Specifically the problem is to decide whether source or residence or some combination of the two is appropriate for

6. The United States has not yet succumbed to entreaties to remove tariff barriers. New interest, however, has been manifest lately in re-examining the present tariff policy since the pauper nations of the free world which need, are being offered, and have to receive, United States dollar aid have been asking for trade not aid. These nations feel that dignity can no longer be sacrificed for dollars. It is contended that through free trade a more honorable way exists to receive the needed dollars.

7. The increase in tax rates during the 1940's was another important factor which stimulated the creation of an effective tax treaty program. Since 1932 the United States has signed 15 income tax conventions, 10 of which have become effective in the last four years. Currently the United States has treaty arrangements with the following countries: Canada, Denmark, France, Ireland, Netherlands, New Zealand, Norway, Sweden, Switzerland, United Kingdom, P. 183.

8. Department of State and the National Advisory Council, *Point Four Cooperative Program for Aid in the Development of Economically Underdeveloped Areas* (Dep't State 1949).

taxing a particular kind of income. Source taxation may be considered taxation of income by the state from which the income is derived; residence taxation is taxation of income by the state in which the recipient of the income resides.

Creditor nations regard the principle of residence taxation as appropriate[9] because it least restricts their power to tax income derived from foreign investment by their nationals. On the other hand, debtor nations[10] contend that they properly tax at source since the income is derived from their countries and the foreign investors enjoy the protection of their laws. Despite this reluctance to relinquish revenue through source taxation, it is not clear that debtor nations will benefit from this technique. If too heavy a tax is imposed on foreign investment at source, except to the extent that there is an effective offset through a foreign tax credit in the home country, foreign investors might limit further investment and thus reduce the amount of capital available for the industrial and economic development of the debtor state. Moreover, in the long run these taxes will have to be borne by the debtor nations in the form of higher interest rates and dividend yields demanded by foreign investors. Economic reality, however, may be the more profound reason behind the frequent suggestion that debtor nations should make some concession in order to receive the needed funds.

One aspect of the treaty program has been the spread of the foreign tax credit.[11] Under this arrangement a foreign tax paid on income subject to tax in the country of source is credited against income tax liability in the country of residence. While the foreign tax credit serves to eliminate a great deal of double taxation, Mr. Phillips notes that it is subject to certain limitations.[12] Generally, the amount of the credit is limited to that proportion of the "home" tax, computed without the credit, which the foreign income bears to the entire taxable net income, or the foreign tax, whichever is lower. The effectiveness of the credit is thus hampered when the foreign tax rate is higher than the tax rate in the home country. Moreover, part of the credit may be valueless because a loss in one country cannot be offset against the gain in another and the over-all credit limitation is based on the net taxable income from all

9. The principle of residence taxation is usually associated with and favors creditor nations, while source taxation is usually associated with and favors debtor nations.

10. The concepts "creditor" and "debtor" nations are relative. The United States in dealing with the other nations of the free world is a creditor nation. Canada, a debtor nation in its dealings with the United States, is a creditor nation in its dealings with the United Kingdom.

11. The foreign tax credit was first introduced in the Revenue Act of 1918. It is provided for now in INT. REV. CODE § 131.

12. C. 5, P. 122.

sources. Finally, the gauge of income employed by each nation is frequently different. This disparity either subjects the taxpayer to continued double taxation or is productive of an unwarranted gain.

The United States has advanced the foreign tax credit provision for the purpose of protecting American investors. Yet it would seem that full protection has been accomplished by the foreign tax credit provision of the Internal Revenue Code. To the extent that the treaty arrangements have increased recognition of the foreign tax credit the major benefit has accrued to those foreign individuals and enterprises which must pay American withholding tax on investment income. The effect is to make investment in the United States more attractive. This result may be considered inconsistent with the creditor position of the United States. Where the foreign tax credit has been adopted the consequence is to achieve tax neutrality to individual investment decision.[13] The desirability of this result is also questionable inasmuch as it encourages the flow of investment income to the United States and therefore does not accord with the program of encouraging development in foreign countries.

The creditor position of the United States is clearly testified to by the substantially greater flow of interest and dividends to, than from, the United States.[14] Despite the position of the United States as a creditor nation in this respect, however, it has followed the principle of source taxation of interest income distributed by "residents" to non-resident aliens and foreign corporations. The Internal Revenue Code now imposes a withholding tax at a flat rate on these income payments.[15] The consistency of this approach is questionable as it may tend to encourage source taxation by other nations where Americans have large investments. Since these taxes would be charged against federal tax liability, the gains from source taxation by the United States might be more than offset by the revenue losses from the tax credit allowed resident taxpayers.

An examination of Mr. Phillips' survey of the various United States treaties indicates that with respect to interest, however, the United States has moved under the treaty program from the position of source taxation

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13. Tax neutrality is accomplished when it is a matter of indifference to an investor whether he invests at home or abroad.

14. Private American investors received the following millions of dollars interest on foreign investment in 1946, 37.8; 1947, 40.0; and 1948, 29.6; while foreign investors received from their American investments only 1.2 millions of dollars in each of the years designated. In 1948 private American investors received $407,300,000 of dividend payments on foreign investment. In that same year foreign investors received from their American investments $56,700,000 in dividend payments. U.S. Department of Commerce, *The Balance of International Payments,* 1946-48 (1948).

15. INT. REV. CODE § 119 provides for a 30% withholding rate for dividends and interest.

through withholding, to the position that interest should be taxed on the basis of the recipient's residence.[16] That is, the United States has granted in the case of interest, complete tax exemption on payments to foreign residents. There may be some doubt as to the sagacity of the debtor country relinquishing withholding at source since this may mean serious fiscal losses in the future when dollar income from United States' investments may not be as significant. On the whole, this new program does not constitute a significant change for the individual American recipient since to the extent that the foreign tax credit was effective, his incentive to invest in foreign enterprise is not affected. With respect to dividend income the United States treaty program has not modified the Internal Revenue Code position to the same extent as it has relative to interest income.[17] The difference is attributable to the larger loss of revenue that would be incurred in freeing dividends from withholding tax at source. Nevertheless, the withholding rate has been generally reduced. In some instances this has resulted in tax neutrality to individual investment decision.

In only one instance is a treaty provision clearly in accord with the political and economic objectives of the United States. This occurs under the United Kingdom treaty which abrogates the rule of *Biddle v. Commissioner*.[18] This decision had placed American investors in United States and United Kingdom companies on a par. Under the treaty the American investors in British companies pay only one layer of tax. By a reduction in the American withholding tax on Britons who hold shares in American firms and a credit against British tax liability for the tax withheld,[19] the British shareholders in American firms also pay only one layer of tax.[20] The net effect is to encourage investment abroad by both groups of investors. This provision thus satisfies Britain's need for American capital investment as well as dollar exchange.

The great variance in definition and taxation of capital gains in different countries means that the treaty provisions must vary from country to country and that the treatment granted capital gains must differ materially from that accorded interest and dividends. The Internal

16. P. 250.

17. P. 254.

18. 302 U.S. 573 (1938). The Court held that any foreign tax on dividends which is deducted by the paying corporation before payment of the dividend, is not recognized as a tax on the recipient for which a tax credit may be taken against federal income tax. The British Standard Tax was considered a tax on the corporation and not the stockholder. Therefore the American recipient of a dividend from a British Company was subject to both the British Corporate Tax and the Federal Income Tax.

19. The credit is in lieu of a deduction which is all that was formerly allowed.

20. This is also true of the British investor in a United Kingdom firm.

Revenue Code excludes from taxation the capital gains of non-resident aliens unless "engaged in trade or business" in the United States.[21] The reason for this position stems from early collection difficulties when these individuals were required to file returns and the inability to initiate a withholding system for such individuals. Moreover, many foreign countries considered this form of taxation as an unfair treatment of their nationals; and one reason for eliminating the tax may have been to promote good relations with other countries. The most important reason, however, may well have been the consequent tax neutrality.[22]

Mr. Phillips indicates that several of the treaties have adopted the Code position except for the concept "engaged in trade or business" for which "permanent establishment" was substituted.[23] This has probably had a tendency to free more individuals from taxation. However, because of objection in this country the United Kingdom treaty embraces the Code's language.[24] In the most recent treaties there has been no mention of the subject at all,[25] thus leaving the United States free to make any unilateral change it sees fit. Taking cognizance of the original circumstance which induced the present exemption, it may be suggested that the administrative difficulties can be solved through the tax evasion provisions of the treaties.[26]

Industrial or commercial profits, as business income is defined in the United States tax treaties, have long been subject to international double taxation and amenable to manipulation so as to produce tax evasion. It is generally recognized that a foreign enterprise is properly subject to tax by the country in which it is doing business, at least on that income derived from that country. While this principal seems simple and just, its application has been most complex. Which country is the source of income or how much of the income is allocable to each of two countries in the instance of goods either purchased or manufactured in one country and sold in another is a vexatious question. It has been equally difficult to determine what portion of the head office expenses are properly allocable to the branch enterprise. These questions are not wholly resolved by the treaty arrangements but the occasions when they may arise are more limited.

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21. INT. REV. CODE § 213.
22. The consistency of this situation with the position of the United States as a creditor nation is questionable.
23. P. 301.
24. United Kingdom Treaty arts. XIV and II(2). See also Netherlands Treaty Art. XI.
25. Treaties with New Zealand, and the Union of South Africa.
26. The essence of this suggestion appears in Gordon, *The United States Income Tax Treaty Program,* unpublished doctoral dissertion, p. 190 (on file, Indiana University Library, 1953).

The League of Nations early attempted to define the principle of allocation to proper tax jurisdiction of the profits of business enterprises operating in several states. It was concluded that taxation on the basis of source should be limited to the case of a "permanent establishment."[27] This principle, in substance at least, has been adopted in all draft and model conventions and all United States tax treaties.

It is clear from Mr. Phillips' analysis of the various treaties[28] that the most significant aspect of this provision is the exclusion of the most common form of foreign marketing in this country from the concept "permanent establishment." As defined, a "permanent establishment" does not include a bona fide commission agent, broker, or custodian of independent status acting in the ordinary course of his business. Before the treaty arrangements, foreign businesses, using this form of marketing, were taxable under the provisions of the Internal Revenue Code on the profits from the sale,[29] whereas these are now exempt from source taxation.

The basis for apportionment of the income or the determination of the income earned in the country of permanent establishment remains a question. Some of the earlier treaties provided that apportionment should be computed on the basis of direct accounting as though the firm were a separate entity. However, a number of the more recent treaties have not dealt with the problem and presumably have left the matter open for joint or unilateral action by the competent authorities of the contracting parties. This conspicuous absence of rules for apportionment among the treaty provisions seems a serious matter since it increases the possibilities of continued double taxation. Provision has been made for the unilateral adjustment of profits on a direct accounting basis in the case of a controlled subsidiary, but this is only a partial solution of a broader problem.

The rules governing the allocation of business income are not applicable to earnings from the operation of aircraft and ships. The treaties generally follow the principle of taxation by the state of residence, that is, in the case of ships and aircraft, the state of registry.[30] This reciprocal exemption results not only from a desire to eliminate double taxation and promote international trade, but also, from recognition of the practical difficulty, if not impossibility, of allocating between nations the earnings of ships and aircraft engaged in international commerce.

27. Fiscal Committee, *League of Nations Report to the Council on the Fourth Session of the Committee* c. 399 (Geneva, 1933).

28. Pp. 235-248.

29. INT. REV. CODE § 211(b) (taxing non-resident alien individuals engaged in trade or business in the United States); INT. REV. CODE § 231(b) (taxing foreign corporations engaged in trade or business in the United States).

30. P. 248.

Of course, countries having no merchant or air fleets have been reluctant to relinquish taxation at source.

It has been suggested that it would be more equitable to follow the allocation principle applied to business generally as respects transportation companies despite the greater administrative problems.[31] But a desire for symmetry should not cause one to minimize the administrative difficulties this plan would involve. Nevertheless it must be conceded that, as between countries which have shipping fleets and those which do not, it would be more equitable than the present system and less troublesome than continuing source taxation generally. Furthermore, the present treaty position does not comport closely with the general foreign policy of the United States toward the development of underdeveloped countries. The suggested position might not entail a large revenue loss to the United States and current free world pressure for dollar exchange might be greatly alleviated thereby.

Revenue-wise, taxation of royalties from intangibles is relatively unimportant; however, consideration has been given to this form of taxation in order to mitigate double taxation and to encourage the free flow of ideas and technical processes. The United States treaty position has been to remove taxation at source except in the case of a permanent establishment.[32] It is sometimes contended that this position may be justified to the extent that taxes at source would have been passed on to the user through higher charges for use when a degree of monopoly power permitted the shifting of tax incidence. However, exemption from source taxation in the case where a foreign tax credit was formerly available to avoid double taxation will merely serve to increase tax liability at the place of residence; this increased tax liability may be shifted on the same basis *i.e.*, the degree of monopoly power held by the taxpayer. Furthermore, residence taxation is not consonant with the United States' objectives in developing under-developed countries, since the flow of income is overwhelmingly to this country. On the other hand, as foreign industry and enterprise develops, tax neutrality may be the best policy.

Oil and mineral royalties and royalties on other tangibles which are more like the income from real property are properly taxable at source. The Internal Revenue Code does not distinguish between tangible and intangible royalties, subjecting both to withholding tax.[33] Royalties received by persons whose income is also taxable in the United States are

31. Shere, *Consultant's Study on Taxation of International Air Transport,* Working Paper, No. AT-WP/154, 31 May 1950, International Civil Aviation Organization, 10th Session of the Council Air Transport Commission.

32. P. 289.

33. INT. REV. CODE § 119.

permitted a foreign tax credit and a depletion allowance to avoid double taxation.[34] Generally the United States treaty position has been to follow the rule of source taxation and exempt income already taxed abroad unless the recipient is a United States citizen.[35] The Canadian treaty does not deal with the problem specifically, thereby leaving these royalties subject to the rules regarding business income.[36] This would produce tax neutrality. Considering the need for exploitation of Canadian resources this provision may be subject to some criticism.

The most important aspect of the treaty provisions dealing with tangible royalties is the taxation of only net income. This is probably justified since in many instances these royalties contain only a small element of true income if allowance is proper for depreciation, depletion, or other charges incident to the recovery of the property from which the income is derived.

Even if considered only from the point of view of the great advance in international cooperation, the provisions for exchanging revenue information and for collection assistance are among the most important aspects of the United States income tax treaty program. Mr. Phillips points out that the treaties generally provide for automatic annual exchange of specified information relative to income derived by non-resident aliens from sources within the respective tax jurisdictions.[37] Much of this information consists of data gathered at source from the withholding returns which residents making distributions to non-resident aliens are required to file. Without a treaty arrangement this information would be wholly inaccessible to foreign interests. Neither nation is generally required to furnish information which it might not have demanded of its citizens in the administration of its own tax laws. Nor are they required to furnish information which will disclose trade secrets, or secret formulae and processes.

The treaties also provide for collection assistance on a reciprocal basis. In the absence of treaty arrangement it is well established that no country will enforce another nation's tax laws. These provisions have stirred controversy among American lawmakers. It has been pointed out that the controversy really stems from the fact that the United States has an excellent tax collection machinery whereas that of other countries is relatively poor.[38] In some countries there is widespread tax evasion because of ineffective tax collection. This would mean that the enforce-

34. *Ibid.*
35. Pp. 289-294.
36. P. 289.
37. P. 308.
38. See Gordon, *op. cit. supra* note 26, at 113.

ment of foreign tax liability against our nationals would in effect make them shoulder a greater share of the foreign country's tax burden than does its own nationals. Therefore, there are no mandatory collection provisions in the treaties with the United Kingdom and Canada, though some provision is made for collection when the income is derived from the United States and goes to Canada tax free or at reduced rates. It must be understood, however, that the measure of success of the limited collection assistance provisions should not be in terms of the number of violators apprehended but rather in terms of the prophylactic effect they have on violation, that is, increased compliance.

There is both an economic and moral aspect to the treaty attempts at fiscal cooperation. Reduction in the total amount of tax evasion means a concomitant lessening of the shift of an excessive tax burden to the honest taxpayer because of the action of the dishonest taxpayer. Economically there is some expectation that there will be a large revenue recovery which will in part compensate for the loss occasioned through the substantive treaty adjustments made to minimize double taxation. The underlying assumption that the substantive treaty provisions have occasioned a dollar loss to the contracting parties should be carefully examined inasmuch as the amount of loss in each instance depends on the practice prior to the treaty arrangement and the change therein effected. The over-all revenue loss may not be as great as it might first appear. Moreover, assuming that a fair bargain has been struck, the minimization of double taxation is a stimulus to the free movement of investment capital which, over the long run, may mean a larger tax base. To the extent that more revenue is forthcoming this result will have all of the salutary effects on the economy and the budget that an increase in revenue potential always has. However, this result should not be overemphasized since it is difficult to measure the actual revenue increase to be expected and it has not been demonstrated that it will be large.

Mr. Phillips has not undertaken to examine the tax techniques employed to overcome international double taxation, with a view to estimating the over-all economic effect of using these techniques, and to determine whether or not this result is directionally right as measured against predetermined political policy. This is the job of an economist.[39] Nevertheless, it is the lawyers' job to develop a craftsmanship in the drafting of treaty provisions.

The drafting problem is twofold, involving the definition of terms and closing "loopholes." Under the Convention between the United

39. The reviewer is aware of only one work which undertakes a detailed economic analysis of the United States tax treaty program. See Gordon, *op. cit. supra* note 26.

States and the United Kingdom the principal benefits are accorded to residents of the United Kingdom or residents of the United States with respect to the tax of the country in which they do not reside. The Convention, however, does not define "residence." Mr. Phillips points out that the definition of terms not otherwise defined is left to each of the contracting parties.[40] Consequently the Convention permits each nation to determine the intention and physical association which are to be given weight in the decision as to whether a particular person is a resident. It is therefore conceivable that in determining residence in order to accord an individual the benefits of the treaty, or to subject him to the tax as it would have been imposed had the treaty not been in existence, both of the contracting nations might find that the individual is resident within itself or is not so resident. Thus, it is possible for an individual to avoid taxation by either country, or be subject to double taxation.[41]

Another example of the failure to define a term in the tax treaty arises in the case of the reduced withholding tax on dividends. "Dividends" is not defined in the Conventions. In this situation the United States tax liability shall be determined according to the Internal Revenue Code definition of dividends and the cases arising thereunder. The individual is thus subject to all of the confusing rules of the United States tax law as to what constitutes a dividend. This absence of definition may result in continued double taxation because dividend income in one country may not correspond with dividend income in the other country.

The implication that there should be more adequate definition of terms in tax Conventions is only half of the story. The problems that may arise from interpretation of treaty provisions can be solved equitably and uniformly by employing a suggestion made in the 1933 draft convention of the League of Nations, that in the event of dispute as to the interpretation or application of treaty provisions such dispute shall be submitted for settlement to a technical body appointed by the League.[42] The United Nations could well act as a substitute for the old League in this matter.

The interpretation and interrelation of the provisions of a single treaty or of several treaties which leave a "loophole" present the second aspect of the drafting problem. For example, under the income tax treaty with Canada, dividends paid by a Canadian corporation operating in the United States are exempt from United States withholding tax if

40. P. 222.

41. Of course this problem is capable of being solved by consultation between the nations.

42. Model Bilateral Convention for the Prevention of Double Taxation of Income (League of Nations, Document C.399.M-204.II A.F./Fiscal 76, 1933).

paid to individual residents of Canada, other than citizens of the United States. If the dividend of a Canadian corporation received by a resident of the United Kingdom is from sources within the United States, the United States would be entitled to withhold at the full Internal Revenue Code rate. However, dividends paid by a United Kingdom company are exempt from United States withholding tax unless the recipient is a citizen or resident of the United States. Therefore, it would seem that a Canadian shareholder of a United Kingdom company is exempt from the United States withholding tax on all dividends paid by the United Kingdom company even though they constitute income from United States sources.[43]

Such "loopholes" may be closed in either of two ways. Multilateral treaties would resolve this problem, but the method is cumbersome and subject to practical difficulties. Furthermore, it leaves unsolved the same kind of problem when it occurs within a single treaty. The other and only real solution lies in careful drafting of treaty provisions.[44]

It is manifest that the United States income tax treaty program has not proceeded along clear cut lines of predetermined political and economic policy. On the whole there has been a tendency towards tax neutrality. The consistency of this policy with the creditor position of the United States, however, is questionable. This policy is clearly inconsistent with the political and economic objective of stimulating private investment abroad for the reconstruction and development of the ravaged and underdeveloped countries of the free world. A tax policy which served as a stimulus to free trade and which activated the flow of investment capital to the debtor nations of the free world, while preserving their revenue, would comport more closely with this objective.[45]

The merits of tax neutrality are not absolute. Economically, international business activity need not necessarily bear the identical tax burden as national business activity. Furthermore, neutrality in taxation need not be the basic tax policy in the area of foreign investment to any greater extent than in any other area of tax legislation. The present abnormal world conditions require the abandonment of the position of tax neutrality and any feeling that the country in need of foreign capital should bear the burden of tax concessions, in favor of a policy of pro-

43. See Alexander, *The Income Tax Convention with the United Kingdom*, 2 TAX L. REV. 295, 311 (1947).

44. Another legal question which deserves exploration is the proper function of the treaty as a modifier of tax law in the American legal system. This question is meaningful when it is recognized that tax legislation originates in the House whereas treaties are subject only to the approval of the Senate.

45. This tax policy would also accord with the present entreaties of the pauper nations of the free world for trade not aid.

tection for the tax revenues of underdeveloped countries combined with the offer of tax concessions[46] by the capital exporting countries. This tax policy would clearly accord with the present United States' political and economic objectives in achieving a free world economy.[47]

While Mr. Phillips has undertaken neither an economic analysis of the United States income tax treaty program nor a study in draftsmanship, he has performed a valuable service to the legal profession in restating the current law of taxation of non-resident aliens and foreign corporations. It is to be hoped that Mr. Phillips will keep his book up to date by the addition of yearly pocket supplements.

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46. In order to insure the principle of tax equity and equality of opportunity for competitive business enterprise these concessions should be in the form of "risk insurance." See Shere, *Taxation of American Business Abroad*, SEVENTH ANNUAL N.Y.U. INSTITUTE ON FEDERAL TAXATION, p. 812 (1949).

47. It is apparent that the political and economic objectives of any treaty program must be clear before the draftsman can perform his job adequately.

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