

THE HISTORY OF TAXATION OF INTERNATIONAL COMMERCE

The writings on this subject span nearly one and a half centuries and the earliest of them are of the year 1884. <sup>1</sup>David Hume, in the mid-18<sup>th</sup> century enunciated what possibly were the first faint and distant glimmerings of ideas and concepts consistent with, and akin to today's ideas of international commerce, international taxation and income distribution. David Hume had a clear vision of a country's interests being connected to, and dependent on the well-being of its neighbours. This is what he wrote :

<sup>2</sup>"I will venture to assert, that the increase of riches and commerce in any one nation, instead of hurting, commonly promotes the riches and commerce of all its neighbours; and that the state can scarcely carry its trade and industry very far,

---

<sup>1</sup> International Taxation - The Trajectory of an Idea from Lorimer to Brandt' - Myron Freankman - World Development, 24<sup>th</sup> May, 1996, 2000-Global Policy Forum.

<sup>2</sup> ibid at Pg.2.

where all the surrounding states are buried in ignorance, sloth and barbarism ...."

David Hume's assertion was the first and giant step of formulating a policy along lines that it adheres to even today. It was the primary recognition that internal trade and commerce could receive a great boost only with conducive and good global market conditions. It further advocated action intended to assist one's neighbours in matters of commerce, revenue collections, and in ensuring that there was no loss of revenue to either state.

Another early reference to international taxation was by James Lorimer in his "Ultimate problem of International Jurisprudence" published in the year 1884. In this work, Lorimer addressed and discussed various aspects of International Jurisprudence before identifying the problem mainly as <sup>3</sup>"the problem of finding international

---

<sup>3</sup> *ibid.*

equivalents for factors known to national law as legislation, jurisdiction and execution". The financial aspect was also discussed, and according to him, the levy of an international tax on the citizens by the government of each state would defray the expenses of the international authority, the setting up of which he advocated.

Later writings show that though international institutions, organizations and transnational taxation was on the agenda of economists, politicians and jurists, the emphasis was on social welfare. The Second World War and the early postwar experience resulted in much importance being given to the social welfare state. The Atlantic charter of August 1941 captured the spirit of the times when Churchill and Franklin Roosevelt declared that no effort would be spared in bringing about the fullest co-operation among all nations for bringing about improved labour standards, economic

development and Social Security. This led to the anticipation that some form of international organization or body would be conceived of that would head and regulate transnational conduct and behaviour in the field of economics and commerce, among others. This, in turn prompted discussion on the need for revenue, if this international organization was to have the extensive powers that it was intended to. It was at this juncture that the levy of an international tax came into play as a means of funding for the international authority. The intention was also the reduction of inequalities in the income of various member states as the member states with the highest per capita income would face the largest per capita burden by means of member state contributions or a system of progressive taxation.

Subsequent economists, <sup>4</sup>C. Wilfred Jenks and T.A. Someberg considered the idea of taxation of activities which were all dependent on the existence of an international order. Jan Timbergen advocated the "World Peace through World Economy" approach whereby only a distribution as just as possible would result in a more stable and prosperous social system.

One of the most prolific contributors to the entire discussion was John Maynard Keynes. His suggestions included an International Clearing moving Union as an authority monitoring the economic and commercial growth of all nations. Keynes himself had opined that <sup>5</sup>"the union might become the pivot of the future economic government of the world". Where most other economic proposals suggested a levy of tax on transactions or the income of a nation, Keynes talked about an

---

<sup>4</sup> ibid  
<sup>5</sup> ibid.

international tax to be levied on the balance of payments surpluses of nations. We see therefore that this was a stage when a consensus was being arrived at with respect to the levy of an international tax but the reasons for the same had not yet fructified into a common agenda acceptable to all nations.

The post-war period saw the growth of international organization as a concept. It also witnessed international cooperation in its myriad forms including collective security arrangements which imposed a collective financial burden as well. The sharing of the financial burden by national governments and the distribution of the same resulted in a series of comparisons drawn between the individual taxation policies of these nations. It was not a happy situation. An important anomaly was discovered, that is, where the state's contribution was based on its per

capita income, is this distribution consistent with progressive individual national taxation? The inability to provide an affirmative answer to this question resulted in the recognition that the levy of an individual, international tax necessarily has to be complemented with some degree of harmonisation of internal, national tax structures. While the social philosophy of taxation as a means of international aid was still strong and the guiding factor in international taxation, it had evolved to a point where the world community had realized that whatever the primary reason may be, the levy of an international tax has to complement the domestic tax structure. A happy marriage between the two therefore was established as a thumb rule and continues to be one of the guiding principles till date.

Till the 1960s there were other theories and schools of thought on this subject. Some suggested

alterations to the existing mass of thinking, others recommended modifications, mostly cosmetic, but very few resulted in concrete growth or codification. The work done during this time was mostly to extend the existing work and calculations of earlier economists and jurists and this continued till Albert Hirschman and Richard Bird formulated the proposal explicitly envisioning a link between personal income tax and the financing of International Aid. <sup>6</sup>They proposed a system of tax credits to individuals for contributions made to foreign aid. Though this proposal would have involved a major and complete departure from the existing line of thinking, it was not to be, since, few countries at that time envisaged tax exemption for any personal charitable contribution. This proposal therefore, soon passed into intellectual limbo.

---

<sup>6</sup> *ibid.*

Several other proposals and studies extended this idea and concept even further. A levy of tax on the beneficiaries of the existence of an international order was proposed and this gained intensity around the 1970's. One impetus to this was the principle of the "Common Heritage of Mankind" included by the United Nations general assembly in 1967 with respect to the Law of the Sea Conference. <sup>7</sup>The 1974 United Nations Resolution calling for a New International Economic Order gave it further impetus. The global sharing of proceeds from economic exploitation of common regions that are not part of the territory of any sovereign state in particular (Res Nullius) was gaining in importance, both in theory and in practical application. The reasons were clear-it was being increasingly recognized that the entire world we

---

<sup>7</sup> United Nations Development Programme, Human Development Report, 1994, Oxford University Press, New York, 1994.

live in today is based on a common heritage, including the food we eat, the thoughts we think, the technological building blocks and machines we use and international public goods, including peace. Under these circumstances and the atmosphere of open ended interpretation of the common heritage of mankind, a strong case was made out for the levy of an international tax to finance both global income redistribution and the maintenance of an international order. In fact a concrete proposal was made in 1970 in the <sup>8</sup>Timbergen Report of a United Nations committee proposing a 0.5% tax on the value of selected consumer durables to source global development finance. This tax was to be referred to as a "world solidarity contribution". Again in 1976 Mahbub ul Huq and James Grant enumerated several taxes to aid automaticity of global funds. Some of these were taxes on non-renewable resources,

---

<sup>8</sup> ibid at Pg:8.

international pollutants, the activities of transnational enterprises, on royalties from commercial activities arising out of international commons, as well as proposals for taxing international consumer spending etc. Of the two, Huq, expressed a preference for an international income tax. He admitted however that an international tax on personal income would be a great challenge to the States' national sovereignty and therefore reluctantly concluded that the levy of the same ought to be deferred.

There were several tangents and corollaries to this main idea of international income taxation. <sup>9</sup>Edith Penrose had proposed an international corporate income tax to be levied on firms according them a newly created status of international incorporation. The resultant revenues were however to be allocated among the countries in which the company is operated

---

<sup>9</sup> ibid

according to a formula, as a deviation from the existing line of thinking, where the revenues were to be pooled for global good.

<sup>10</sup>Steinberg, Yager, and Brannon, proposed a national "shadow tax" which is to be levied on the basis of estimated yields from nations as opposed to an actual levy proposed by the United Nations calculated on the gross national product of member states.

An interesting proposal was a tax on "brain drain" proposed in 1979. The <sup>11</sup>Tobin tax on foreign exchange transactions was formulated and developed around the 1970s. His proposal was however motivated by a desire to streamline, and if possible dampen speculative capital flows and restore greater autonomy to a nation's monetary policy. To this end, the question of disposition of the vast sums of money likely to be raised by a

---

<sup>10</sup> ibid at Pg.9

<sup>11</sup> See <http://www.tobintax.org.uk/tobintax>

internationally uniform tax was not dealt with specifically by him. There was a mere suggestion that the proceeds collected be paid over to an international authority like the IMF or the World Bank.

Later studies had much in common with existing ones but the emphasis continued to be on raising funds for global economic integration, harmonisation and development. The 1980 <sup>12</sup>Brandt Commission Report listed similar findings but chose to emphasise the importance of universality in any revenue-raising programme. The report received wide publicity and was the focus of discussions at many meetings and seminars.

The situation remains much the same today. The wheel, it appears, is reinvented daily, with routine calls for the levy of one type of international tax or another advocated by one

---

<sup>12</sup> Brandt Commission, Common Crisis North South: Co-operation for world Recovery, PanBooks, London, 1983.

grass-roots agency or another. The need however is more urgent today than it ever was.

Never before has the world been in such a state of flux. The existence today of significant negative externalities having a global impact is well-recognised and has profound ramifications. Never therefore, has the idea of an international tax levy been more relevant than today.

<sup>13</sup>It is felt that in the present economic and political contexts, it is unlikely that any State would make a concession in any area of revenue, particularly revenues from tax. Allowing for the fact that all Theories, concepts, guidelines and regulations that govern international law and which are discussed in detail in the later pages of my thesis, are purely advisory in nature, the only deterrent for a State to not comply with

---

<sup>13</sup> The Formulary Approach to the taxation of Transnational Corporations : A Realistic Alternative? Lindsay C.Celestin - <http://setis.2.library.usyd.edu.au/adt/public/html/adt-Nil/uploads/approved/adt-NU20020917.133138/Public/02 Whole.pdf>.

international regulations is the fear of International sanctions and International opinion. Though political and criminal conflicts have seen international organizations like the U.N. using force and other pressure tactics, it is unlikely that any international organization will assume such power of enforcement in the area of fiscal concerns.

Developments in the areas of Commerce & business, however have made the world one big Global market It is time therefore that the suggestion and thinking of economists are applied to today's situations and conditions.