

THE COUNCIL,

Having regard to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14th December 1960;

Having regard to the Recommendation of the Council of 11th April 1977 concerning the avoidance of double taxation [C(77)40 Final];

Having regard to the Report of the Committee on Fiscal Affairs of 17th June 1983 on the taxation of income derived from leasing of containers [DAFFE/CFA/82.12(1st Revision) and Addendum 1];

Considering the need to remove the obstacles that double taxation presents to the free movement of goods, services, capital and manpower between Member countries of the OECD by the conclusion of Conventions between them for that purpose;

Considering that the OECD Model Double Taxation Conventions have helped Member countries to harmonize bilateral conventions on the basis of uniform principles, definitions, rules and methods, to agree on a common interpretation and to extend the existing network of such conventions;

Considering the need to proceed to periodic reviews of situations where double taxation may occur, in the light of experience gained by Member countries, and to make appropriate proposals for its removal;

I. RECOMMENDS the Governments of Member countries:

1. When applying existing bilateral conventions to enterprises leasing containers:

i) to take account of the considerations set out in Parts III and IV of the above-mentioned Report for the interpretation of

Articles 5, 7 and 12 of the OECD 1977 Model Double Taxation Convention on Income and Capital (hereinafter referred to as the "Model Convention");

- ii) to resolve administrative difficulties of application of these Articles by way of mutual agreement;
  - iii) to grant relief where possible, either under Article 25 of the Model Convention or under their domestic laws, in order to avoid double taxation or other harmful effects caused by the taxation at source of such income.
2. When concluding new conventions or revising existing ones, not to subject income derived from the leasing of containers to provisions under which such income may be subject to taxation at source.

II. INSTRUCTS the Committee on Fiscal Affairs to take into account suggestions made in the above-mentioned Report regarding the scope of Article 12 when the Model Convention is next revised.

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In adopting this Recommendation, the Council:

- 1. NOTED the Report by the Committee on Fiscal Affairs on the taxation of income derived from the leasing of containers [DAFFE/CFA/82.12(1st Revision) and Addendum 1] and AGREED that it should be published and given appropriate publicity;
- 2. AGREED to the derestriction of the above-mentioned Recommendation;
- 3. NOTED the statement made by the Permanent Representative of France.