

Introductory Remarks Concerning Tax Treaties

I am very pleased to be here and to be participating in a discussion of what we think is a very important area of our concern in the Treasury Department and in our tax policy. The Treasury's goal in negotiating tax treaties in the East-West context has been the same as it has been in our other treaties, to facilitate our economic and cultural relations by removing tax obstacles to the flow of people, technology and capital.

Such treaties have now been signed with the Soviet Union, Romania and Poland. We have tried to take into account in each case special factors, as we do indeed in each of our treaty negotiations.

The convention with the Soviet Union was the first concluded by the United States with an Eastern European country, and it was also the first comprehensive tax convention concluded by the Soviet Union. So, it was necessary for us to deal for the first time with specific situations arising from the interaction of two such different economic situations.

In negotiating with the Eastern countries, we find of course considerable variation in their tax laws and their approach to taxation of Western enterprises. Experience in one negotiation has not necessarily been a precedent for experience in other negotiations.

The Romanian and Polish treaties, for instance, are much closer to the model of the Organization of Economic Cooperation and Development, which is indeed the model that the United States attempts to follow to a considerable extent.

Of particular significance to us in dealing with these treaties have been the problems of writing rules and dealing with taxation of state enterprises operating in a commercial capacity. We have potential problems arising from differences in income accounting concepts, and, overall, the fluid situation of countries such as the Soviet Union, which have not yet made their tax laws or tax structure generally applicable to foreign enterprises, and where they are reviewing the future course that their tax legislation might take with respect to foreign investment.

In consequence, there are unusual features in our treaties, particularly with the Soviet Union. For example, somewhat more emphasis on tax exemption as a

*Robert J. Patrick, Jr. is International Tax Counsel, United States Treasury Department.

method of relieving double taxation, or our non-discrimination rules in these countries as written into the treaties are based on non-discrimination vis-à-vis third country residents or investors, rather than based on national treatment in the host countries.

The variations in the laws and some of the unique accommodations that must be made will be discussed by the speakers this afternoon. It is very important to us in looking at these treaties in perspective that they provide for harmonization of rules for the international investor and for the trading organization, and afford some elements of certainty between our countries as relations between the countries continue to develop.

Based upon the experience we expect to have in the early years after these treaties are in force and on business transactions that are now under way, as well as the experience with the administration of our own tax system and the experience of our investors with dealing with the Eastern countries, this is an area in which we can expect evolution of our rules and of our approaches.

The Soviet treaty was signed in June of 1973. The Romanian treaty was signed on December 4, 1973, and the treaty with Poland was signed on October 8, 1974. All three treaties have been submitted to the Senate. Preliminary discussions have been held with one other country in the area, Yugoslavia.