modify the existing limitations under section 904 which would normally disallow any U.S. credit for foreign taxes levied on U.S. source income.

To summarize, the bill treats its new "activities" test as taking precedence over the existing source rules when the activities occur within the United States but not when the activities occur within a foreign country. This inconsistency is compounded by the bill's adherence, in determining the limitation on U.S. credits for foreign taxes, to existing source rules instead of using its new "activities" test to attribute income to a foreign country.

The Council therefore submits that, if the purpose of the bill is to set a precedent for a reform of tax laws throughout the world, the bill should at least apply its new "activities" test in an even-handed manner, which might work if other countries were to follow this new concept, rather than on a one-sided basis which could only produce numerous cases of double taxation if other countries followed the lead of the United States. If the activities test as contained in the bill is not valid as a precedent for for other countries, the United States is not justified in adopting it.

**Conflict with U.S. Tax Treaties**

The United States has concluded numerous tax treaties which prohibit the taxation, as attributable to a United States office, of income from sources outside the United States. (Significantly, two of the most recently proposed treaties—with Israel and Thailand—specifically set forth our existing source rules for this purpose).

It is true that other U.S. tax treaties do not expressly prohibit U.S. taxation of foreign source income attributable to an office in the United States, if that office qualifies as a "permanent establishment". But even those treaties expressly limit the amount of income which could be so attributed to the amount which the particular activities would earn if carried on by an independent corporation with no other activities. The bill, in contrast, would apply in many cases where there was no such permanent establishment and is ambiguous as to whether the amount of income which would be attributed to the U.S. office of the foreign corporation is limited to only the amount fairly allocable to the U.S. activities.

The bill thus would come in conflict with most, if not all, of the existing tax treaties to which the United States is a party. While the proposed section 894 makes the bill inoperative to that extent, it nevertheless seems fair to question the need either (1) to renegotiate these numerous treaties or (2) to discriminate against foreign corporations belonging to the many non-treaty countries of the world, which include most of the "less developed countries." These unfortunate alternatives would seem to be justified only by some inherently desirable and necessary policy.

We submit that no such policy is furnished either: (1) by the idea that the United States is entitled to move into any vacuum created by supposed