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Agenda item 3(a)(i)

**Changes to the UN Model Double Taxation Convention Dealing with
the Operation of Ships and Aircraft in International Traffic**

*~~Paragraph 2 of Article 8 (alternative A) and
paragraph 3 of Article 8 (alternative B)~~*

Operation of boats engaged in inland waterways transport

15. Each of these paragraphs reproduces Article 8, paragraph 2, of the OECD Model Convention. The paragraphs apply not only to inland waterways transport between two or more countries but also to inland waterways transport effected by an enterprise of one country between two points in another country. Countries are free to settle any specific tax problem which may occur with regard to inland waterways transport, particularly between adjacent countries, through bilateral negotiations. *Profits of an enterprise of a Contracting State derived from inland waterways transport fall within the scope of paragraph 1 of Article 8 (Alternative A) or paragraph 2 of Article 8 (Alternative B) only to the extent that such transport constitutes international traffic pursuant to the definition of that term in Article 3. Some countries wishing to apply the same treatment to (e.g. countries where foreign enterprises are allowed to carry on cabotage operations on a river that flows through them) may wish, however, to extend the treatment provided for in paragraph 1 of Article 8 (Alternative A) to the profits derived from any transport on rivers, canals and lakes; these countries may do so by including the following provision in their bilateral treaties:*

Profits of an enterprise of a Contracting State from the operation of boats engaged in inland waterways transport shall be taxable only in that State.

Where such a provision is included, the title of Article 8 should logically be amended to read "Shipping, inland waterways transport and air transport".

15.1 [THE FOLLOWING REPRODUCES PARAGRAPH 8] ~~Some~~*Other* countries, *however*, consider that *inland waterways transport that does not constitute international traffic should not be treated differently from other business activities taking place within their borders.* ~~the activity of transport carried out in inland waters, by definition, cannot be considered international transport and, by virtue of that, the fiscal or tax power should be attributed exclusively to the source country in which the activities are carried out. Since *Article 8 the above alternative provision* deals with “*Shipping, inland waterways transport and air transport*”, obviously all three modes of transport dealt with in *this Article 8* involve problems of double taxation. Income derived from inland waterways transport is also subject to double taxation if a river or lake used for commercial transportation flows from more than one country with the headquarters of the establishment in one country and traffic originating in more than one country. Hence, *These countries consider that although* it is possible that inland waterways transport *that does not constitute international traffic* ~~would~~ give rise to problems of double taxation, *such problems can be addressed through the rules of Articles 7 and 23 A or 23 B in the cases where foreign enterprises are allowed to carry on such transportation activities.*~~