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## **Committee of Experts on International Cooperation in Tax Matters Tenth Session**

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Item 3(a) (iii) (b) of the provisional agenda\*

### **Article 8: Transportation issues**

## **Application of Article 8 to Cruise Shipping**

### **Note by the Secretariat<sup>1</sup>**

#### **Introduction**

1. This note addresses the issue of the possible application of Article 8 of the United Nations Model Double Taxation Convention between Developed and Developing Countries (the UN Model) to cruise shipping. The note first addresses whether or not cruise shipping generally falls within the coverage of Article 8. It next considers, if it *is* covered, what some of the issues might be in terms of the *scope* of that coverage – in particular, the issue of what might comprise “auxiliary activities” as referred to in the UN Model Commentary to Article 8.

2. At the ninth annual session of the United Nations Committee of Experts on International Tax Cooperation in Tax Matters (the Committee) in 2013, the issue of the application of Article 8 (*Shipping, inland waterways transport and air transport*) to cruise shipping was proposed by Mr. Enrico Martino as a possible item for discussion at that tenth session. It was agreed that a note be prepared on the issue and, at the request of Mr. Martino, and with his input, this note fulfils that request.

3. Comments were received on this issue from the Cruise Lines International Association (CLIA), and they are included at Attachment A to this note.

#### **The Articles**

4. Article 8 as it appears in the UN Model<sup>2</sup> reads as follows (with the two alternatives provided):

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\* E/C.18/2014/1

<sup>1</sup> This paper was prepared by the Secretariat. It is a preliminary analysis solely to assist Committee consideration and should not be taken as necessarily reflecting concluded views.

<sup>2</sup> References to the UN/OECD Models/Commentaries made in this note are always to their latest versions (the 2011 version for the UN Model/Commentary, and the 2014 version for the OECD Model/Commentary), unless otherwise indicated.

*Article 8*

SHIPPING, INLAND WATERWAYS TRANSPORT AND AIR TRANSPORT

*Article 8 (alternative A)*

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. Profits from the operation of boats engaged in inland waterways transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
3. If the place of effective management of a shipping enterprise or of an inland waterways transport enterprise is aboard a ship or a boat, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship or boat is a resident.
4. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

*Article 8 (alternative B)*

1. Profits from the operation of aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. Profits from the operation of ships in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated unless the shipping activities arising from such operation in the other Contracting State are more than casual. If such activities are more than casual, such profits may be taxed in that other State. The profits to be taxed in that other State shall be determined on the basis of an appropriate allocation of the overall net profits derived by the enterprise from its shipping operations. The tax computed in accordance with such allocation shall then be reduced by \_\_\_ per cent. (The percentage is to be established through bilateral negotiations.)
3. Profits from the operation of boats engaged in inland waterways transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. If the place of effective management of a shipping enterprise or of an inland waterways transport enterprise is aboard a ship or a boat, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or if there is no such home harbour, in the Contracting State of which the operator of the ship or boat is a resident.

5. The provisions of paragraphs 1 and 2 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

5. Subparagraph 3(1)(d) of the UN Model defines the term “international traffic” used in Article 8. That subparagraph, which is the same as the corresponding OECD Model definition, relevantly provides as follows:

*Article 3*

GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:

[. . .]

(d) The term “international traffic” means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

[. . .]

6. The first issue under this definition is whether cruise shipping can constitute “international traffic” and the second issue is whether and in what circumstances the exception for situations “when the ship or aircraft is operated solely between places in the other Contracting State” might apply. These issues are considered below.

**The UN Model and OECD Model Commentaries**

*Requirements under Article 8 of the UN Model*

7. Article 8 (alternative A), Paragraph 1 of the UN Model allocates the treaty right to tax “profits from the operation of ships or aircraft in international traffic” only to “the Contracting State in which the place of effective management of the enterprise is situated” (state of effective management) and thereby, exempts such profits from taxation by that state’s treaty partner. This corresponds to Article 8, Paragraph 1, of the OECD Model as it currently stands. Paragraph 2 of Article 8 (alternative B) in the UN Model has the same effect, unless the shipping activities concerned are more than casual, in which case the other state may tax them.

8. Article 8 is therefore an exception to the normal rules for taxation of business profits in Articles 5 and 7, which allow states to tax the profits of permanent establishments (situated in their state) of an enterprise from the other state. In order for the Article 8 exception to this treatment to apply, both the following conditions must be satisfied: (i) the profits are obtained from the operation of ships or aircraft including certain “auxiliary activities” so closely related to that operation as to be treated as part of it; and (ii) the ships or aircraft are operated in international traffic. Therefore, these two requirements must be examined in considering whether and to what extent Article 8 applies to cruise shipping.

9. The submission from the Cruise Lines International Association (CLIA) included at Attachment A to this note noted these issues as follows:

Our comments are limited to the application of the Convention [UN Model] to the passenger cruise industry with particular attention to the inclusion of cruise ship operations as international transport and identifying those operations that are ancillary/auxiliary to the international transportation of passengers.

**“International Traffic”**

10. The OECD Model Commentary on Article 3, suggests at Paragraph 6.1 that the term “transport” as used in the definition of “international traffic” in Subparagraph 3(1)(e), includes a transport, or journey, of passengers, which means that a cruise can be included within “international traffic” as a transport of passengers.<sup>3</sup> Furthermore, the following paragraph of the OECD Model Commentary specifically refers to a “cruise” in an example to discuss whether a transport falls within the definition of “international traffic”.<sup>4</sup> These paragraphs were added in 2000 and 2005, respectively.

11. The UN Model Commentary does not cite these paragraphs of the OECD Model Commentary, both of which were incorporated into the OECD Model Commentary after the most recent substantive changes to these aspects of the UN Model Commentary on Article 3 in 1999. Thus, there is no explicit reference to a cruise, or a transport of passengers more generally, in the UN Model Commentary on Article 3. Hence, whether or not a cruise or a transport of passengers by sea can fall within “international traffic” is not necessarily clear from the language of the UN Model Commentary on Article 3.

12. The submission from the Cruise Lines International Association (CLIA) included at Attachment A to this note addressed this issue as follows:

Incorporation of the OECD view by the UN is evidenced by extensive quotation of the OECD commentary in the original iteration of modern UN Model Convention. Further, reservations to the OECD Model lodged by Australia and Canada to tax as internal traffic profits from the carriage of passengers between places within the same country clearly demonstrates that the parties understood the convention to apply to passenger transport. [. . .]

The only distinctions between freight and passenger vessels involve their technical operation and design. That is, except where the nature and construction of the vessel differs, each type of ship is treated the same for many purposes. How the OECD Model Convention and Commentary characterize passenger shipping for income tax purposes is unquestionable. One of the stated objectives of the UN is to provide interpretive consistency between the UN and OECD model wherever possible – unless there is a particular national reason that they should diverge.

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<sup>3</sup> OECD Model Commentary on Article 3, Paragraph 6.2.

<sup>4</sup> OECD Model Commentary on Article 3, Paragraph 6.3.

*Implicit Acceptance of Coverage of Cruises within “International Traffic?”*

13. As to the interpretation that cruises should be accepted as being implicitly covered by the UN Model Commentary’s references to the OECD Model Commentary, it should be first noted that the UN Model’s Introduction makes it clear that omissions of paragraphs of the OECD Model Commentary cannot be assumed to represent any disagreement by the UN Model Commentary with the OECD Model Commentary.<sup>5</sup> The Introduction continues by noting that the context of the omissions should be given consideration.<sup>6</sup> On the other hand, implicit acceptance of paragraphs not cited by the UN Model Commentary appears unwarranted, especially as other changes of the OECD Model Commentary relating to international traffic in 2005 (the Article 8 Commentary) were explicitly excluded from the UN Model Commentary because there was as yet no agreement.<sup>7</sup> The specific coverage of cruise shipping seems not to have been proposed at any time during the process of the 2011 Update of the UN Model. With due regard given to the contexts of Articles 3 and 8, the Secretariat considers that there is no implicit endorsement or dis-endorsement in the UN Model (including its commentaries) of the view found in the Commentary to Article 3 of the OECD Model that cruises operate as “international traffic”.

*Reservations to the OECD Model*

14. As to the Reservations to the OECD Model made by Australia and Canada as well as some other OECD member countries, they do not have any bearing on the interpretation of the UN Model including its Commentary, whatever their relevance may or may not be to interpretation of the OECD Model (as “Reservations” to the OECD Model Article, they do not directly reference even the OECD Commentary). In any case, they do not specifically refer to cruise shipping and do not add to the clear coverage of cruise shipping under the OECD Model as interpreted in its Commentaries.

*Other Contexts in the UN Model Commentary*

15. The Commentary to the Article 3 definition of “international traffic” proposes a broad reading for that term when it states that:

8. As also noted in the OECD Commentary, “[t]he definition of the term “international traffic” is broader than the term is normally understood [in order] to preserve for the State of the place of effective management the right to tax purely domestic traffic as well as international traffic between third States, and to allow the other Contracting State to tax traffic solely within its borders”.

16. The UN Model Commentary on Article 8 cites the OECD Model Commentary on Article 8 as of 2003<sup>8</sup>, which states “[t]he profits covered consist in the first place of the profits obtained by the enterprise from the carriage of passengers or cargo”. The most widely held interpretation, especially in view of the broad meaning “international traffic” is meant to have

<sup>5</sup> UN Model, Introduction, Paragraph 21.

<sup>6</sup> Id.

<sup>7</sup> Report on the seventh session of the Committee, E/2011/45-E/C.18/2011/6, Paragraph 7. Available at: [http://www.un.org/ga/search/view\\_doc.asp?symbol=E/2011/45&Lang=E](http://www.un.org/ga/search/view_doc.asp?symbol=E/2011/45&Lang=E).

<sup>8</sup> That is, the last version of the OECD Model Commentary before the 2005 changes.

according to the UN Model Commentary, appears to the Secretariat to be that a transport of passengers on a cruise will *prima facie* be within the definition of “international traffic” as a prerequisite for the application of Article 8.

17. In its terms, a cruise ship transports passengers, and the ports of call are generally important to decisions about which cruises passengers take, even if the purely transport component of the cruise experience is less significant relatively to other aspects (notably the on-board experience) than in air transport. Taken these contexts into consideration, the Secretariat is of the view that “international traffic” would generally be interpreted as including a cruise, as a transport of passengers, as long as its other requirements are satisfied.

18. If this is the general view among the Committee, it could be clarified by an example or other explicit reference to cruise shipping in the Article 3 or 8 Commentaries.

### **Journey of Ships/Aircraft or Passengers?**

19. In order for cruise shipping, or a transport of passengers generally (such as by “tramp shipping” that lacks a regular schedule or published ports of call) to fall within the scope of “international traffic”, it has to be “international”, as opposed to being “domestic”. As noted above, the definition in Article 3 does not extend to cases where “the ship or aircraft is operated solely between places in [a] Contracting State”.

20. In this regard, the Commentary to Article 3 of the OECD Model provides as follows:

6.1 . . . [T]he definition [of “international traffic” applies where the journey of a ship or aircraft between places in the other Contracting State forms part of a longer voyage of that ship or aircraft involving a place of departure or a place of arrival which is outside that other Contracting State. For example, where, as part of the same voyage, an aircraft first flies between a place in one Contracting State to a place in the other Contracting State and then continues to another destination also located in that other Contracting State, the first and second legs of that trip will both be part of a voyage regarded as falling within the definition of “international traffic”.

6.2 Some States take the view that the definition of “international traffic” should rather refer to a transport as being the journey of a passenger or cargo so that any voyage of a passenger or cargo solely between two places in the same Contracting State should not be considered as covered by the definition even if that voyage is made on a ship or plane that is used for a voyage in international traffic. Contracting States having that view may agree bilaterally to delete the reference to “the ship or aircraft” in the exception included in the definition, so as to use the following definition:

- e) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when such transport is solely between places in the other Contracting State;

21. These paragraphs essentially state that, under the unmodified OECD Model, “international traffic” focuses on whether the journey of a ship or aircraft, rather than the journey of a passenger or goods on that ship or aircraft, is international or not, unless otherwise

stipulated in applicable tax treaties. Hence, as long as the overall journey of a ship or aircraft crosses the border, the domestic journey of a passenger or goods that forms part of such overall international journey will be also included within the scope of “international traffic”.

22. The submission from the Cruise Lines International Association (CLIA) at Attachment A supports the interpretation of the OECD Model Commentary in the following comment (*a footnote in the quoted paragraph is omitted*):

The challenge in using intent of the passenger is demonstrated by a vessel that, while carrying passengers on multi-night/destination voyages; may, at the same time, be carrying some passengers port to port. Since all passengers are being transported, is there a rational reason that the income of passengers traveling to one port be treated differently from that derived from passengers traveling to several?

23. In a 2013 draft ruling on certain shipping profits under Australia’s tax treaties the Australian Taxation Office (ATO) noted that:<sup>9</sup>

76. Paragraph 4 of the standard ships and aircraft article will also apply if a ship stops at a place outside Australia but does not discharge its passengers or goods until returning to Australia. It will therefore apply where, in the course of a passenger cruise which starts and ends in Australia, the ship stops at a port outside Australia to enable passengers to temporarily alight before returning to the ship for discharge in Australia.

77. The place at which passengers and goods are discharged is a question of fact to be determined in each particular case. However in relation to the carriage of passengers and their luggage on a cruise there will not be a relevant ‘discharge’ for the purposes of paragraph 4 until the cruise terminates and the passengers and their luggage are unloaded and removed from the responsibility of the shipper. Therefore even though a ship may stop at a port outside Australia to allow passengers to temporarily alight (but where their luggage typically remains onboard the ship and they retain access to the ship and their cabins), paragraph 4 will still deem the relevant profits to be treated as profits from the operation of ships confined solely to places in Australia.

24. It should be understood that this discussion relates to a special feature of many of Australia’s tax treaties providing that, for the purposes of Article 8, profits derived from the carriage by ships or aircraft of passengers, livestock, mail, goods or merchandise which are shipped in a Contracting State and are discharged at a place in that State shall be treated as profits from ship or aircraft operations confined solely to places in that State. Therefore the emphasis on the meaning of “discharged” is because of its deeming provision as to what the term “confined solely to places in [Australia]” (reflecting the UN Model’s wording) meant. In correspondence to the Secretariat, the CLIA notes that “[t]he conclusion in the draft ruling issued by the Australian Tax Office was due solely to the use of the terms ‘shipped’ and ‘discharged’ which are unique to Australian law in the determination of whether goods or passengers are transported ‘solely between places in the other contracting state.’ As a consequence, the discussion preceding issuance of the final ruling in Australia would not be relevant in most jurisdictions.”

<sup>9</sup> TR 2013/D5. Available at: <http://law.ato.gov.au/atolaw/view.htm?docid=%22DTR%2FTR2013D5%2FNAT%2FATO%2F00001%22>

25. There was criticism of this view and, as noted in the Compendium of Comments with the ATO Responses:<sup>10</sup>

While the interpretation of paragraph 4 taken in the Draft Ruling is technically open, the Commissioner now accepts that passengers are relevantly ‘discharged’ at a place outside Australia if they disembark at a foreign port of call during the course of a round trip cruise starting and ending in Australia. Further, the Commissioner accepts that paragraph 4 of the standard ships and aircraft article only applies in respect of the carriage of passengers who are shipped and discharged solely in Australia (that is, without being discharged outside Australia).

26. The final ruling, TR 2014/2, focuses more on the voyage of the ship itself than of individual passengers and takes a broader view of what “discharged” means.<sup>11</sup>

89. Paragraph 4 of the standard ships and aircraft article focuses on places where passengers or goods are shipped and discharged (as opposed to where the ship might stop for example). If these are places in the same Contracting State, it characterises the entire ‘carriage’ as being confined solely to places in that State. Accordingly, where passengers or goods are shipped and discharged in Australia (without having been discharged outside Australia), then regardless of whether the ship stops at a place outside Australia for some other purpose or travels through international waters, paragraph 4 applies to treat section 129 income from such carriage as profits from ship operations confined solely to places in Australia which Australia has a right to tax under paragraph 2 of the standard ships and aircraft article.

90. The Commissioner accepts for these purposes that passengers are ‘discharged’ at a place outside Australia if they are permitted to disembark at such a place (that is, notwithstanding that they might not actually disembark because, for example, they choose not to). It is considered unlikely that paragraph 4 was intended to distinguish in its application between passengers who actually disembark at a foreign port of call and passengers on the same cruise who do not. For income from the carriage of the passengers not to be treated as profits from operations confined solely to Australia it is sufficient that the ship stops for the purpose of enabling them to disembark at a foreign port of call.

27. While not directly relevant to the UN Model context, this process of developing the Australian ruling indicates some of the issues that could be considered with a view to clarification in this area.

28. As noted above, however, neither acceptance nor rejection of paragraphs of the OECD Model uncited by the UN Model Commentary (considering the vessel rather than the individual passengers) appears warranted in this case as a matter of interpretation of the UN Model. This is especially the case given that those paragraphs were incorporated into the OECD Model

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<sup>10</sup> TR 2014/ 2EC. Available at:

<http://law.ato.gov.au/atolaw/view.htm?locid=%27CTR/TR2014EC2/NAT/ATO%27&PiT=99991231235958>

<sup>11</sup> Available at: <http://law.ato.gov.au/atolaw/view.htm?locid=%27TXR/TR20142/NAT/ATO%27&PiT=99991231235958>

Commentary after the most recent substantive changes to the UN Model Commentary on Article 3 in 1999.

29. The language of the UN Model is not clear and appears to accommodate both of the positions suggested in the OECD Model Commentary, although the exception in the definition “when the ship or aircraft is operated solely between places in the other Contracting State” does track the vessel not the individual passengers. The reference in the Commentary to taking a broad view of what constitutes “international traffic” does not speak directly to this issue of what movements should be focused on. Members might wish to consider whether or not to draw upon those paragraphs of the OECD Model Commentary addressing this issue.

30. If the Committee considers that both interpretations are open under the UN Model, countries focusing on voyages of individual passengers might consider some component of profits from cruises as not covered by Article 8 – profits from passengers travelling from one domestic port to another.

### **Profits from Activities Auxiliary to the Operation of Ships**

31. In cruise shipping, shipping enterprises earn profits by providing passengers with various additional services, not just limited to a mere transport of the passengers. As such, whether and to what extent such profits can be covered by Article 8 as “profits from the operation of ships or aircraft” is an issue of relevance.

32. Cruise lines have been at the forefront in developing non-ticket revenue, which in that industry is called “on-board and other revenue”.<sup>12</sup> It is similar to what is called “ancillary revenue” in the airline industry and is addressed in paper E/C.18/2014/CRP.1 for consideration by the Committee at the Tenth Annual Session. A 2012 Report on such revenue in both industries noted:<sup>13</sup>

Cruise prices typically include sleeping accommodations, meals in certain dining facilities, and many onboard activities such as entertainment, poolside activities, and sports programs. Norwegian [Cruise Lines] generates additional revenue on its ships principally from casino operations, beverage sales, specialty dining, shore excursions, gift shop purchases, and spa services. This “onboard and other revenue” yields more than \$51 per cabin day (not per passenger).

Revenue managers on ships and in headquarters monitor spending and work in real time to increase the revenue produced by individual cabins during the cruise. For example, they may create offers for the occupants of an individual cabin.

Norwegian’s Freestyle Cruising provides complimentary meals in main dining rooms, buffets and for room service. Premium dining is available for a “cover charge” of \$10 to \$30 per person in a variety of upgraded dining experiences such as steakhouse, Asian fusion, and French gourmet formats. [. . .]

<sup>12</sup> As to some components of this revenue, see e.g., Brian Sozzi, *Norwegian Cruise Line Finds Ways to Boost On-Board Spending*, *Forbes*, 15 July 2014.

<sup>13</sup> Jay Sorensen, *Profit from Innovation: Benefits of Ancillary Revenue Reach all over the World*, an Amadeus and IdeaWorks sponsored 2012 Report: [http://www.amadeus.com/airlineit/docs/2012\\_ideaworks\\_report\\_airlines\\_profit\\_from\\_innovation.pdf](http://www.amadeus.com/airlineit/docs/2012_ideaworks_report_airlines_profit_from_innovation.pdf), at 8-9.

A recent announcement by Carnival Cruise Line should remove any doubt others are watching ancillary revenue developments in the airline industry. The “Faster to the Fun” service provides priority embarkation, early cabin availability, priority dinner reservations, express access to the guest services desk, and faster luggage delivery. It was introduced August 2012 on a pilot basis with two ships starting at a price of \$49.95 per cabin. Carnival commented in its press release, “The program was developed based on extensive passenger surveys, indicating a strong interest in a fee based package of priority access and benefits.”

In another nod to the airline industry, the service will be provided as a free perk for top tier members of Carnival’s loyalty program.

*The UN Model Commentary on Article 8 (“Auxiliary Activities”)*

33. As regards “profits from the operation of ships or aircraft” to be covered by Article 8, the UN Model Commentary on Article 8 cites the following paragraphs from the OECD Model Commentary on Article 8 in 2003:<sup>14</sup>

4. The profits covered consist in the first place of the profits obtained by the enterprise from the carriage of passengers or cargo. With this definition, however, the provision would be unduly restrictive, in view of the development of shipping and air transport, and for practical considerations also. The provision therefore covers other classes of profits as well, i.e. those which by reason of their nature or their close relationship with the profits directly obtained from transport may all be placed in a single category. Some of these classes of profits are mentioned in the following paragraphs. [ . . . ]

6. The principle that the taxing right should be left to one Contracting State alone makes it unnecessary to devise detailed rules, e.g. for defining the profits covered, this being rather a question of applying general principles of interpretation.

7. Shipping and air transport enterprises—particularly the latter—often engage in additional activities more or less closely connected with the direct operation of ships and aircraft. Although it would be out of the question to list here all the *auxiliary activities* which could properly be brought under the provision, nevertheless a few examples may usefully be given.

8. The provision applies, inter alia, to the following activities:

- a) the sale of passage tickets on behalf of other enterprises;
- b) the operation of a bus service connecting a town with its airport;
- c) advertising and commercial propaganda;
- d) transportation of goods by truck connecting a depot with a port or airport.

34. These paragraphs of the UN Model Commentary essentially state that the profits covered by Article 8 include not only profits directly obtained from transport of passengers or cargo, but also profits obtained from additional activities closely connected with the direct

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<sup>14</sup> UN Model Commentary on Article 8, Paragraphs 10, 11.

operation of ships and aircraft, called “auxiliary activities” in the UN Model but now referred to as “ancillary activities” under the OECD Model. The change of OECD Model Commentary terminology is explained in paper E/C.18/2014/CRP.1 and the Cruise Lines International Association (CLIA) submission has supported making a similar change in the UN Model commentary.

35. The UN Model Commentary only regards the scope of such “auxiliary activities” as “a question of applying general principles of interpretation” and does not provide detailed guidance on the interpretative issues. It provides four examples for “auxiliary activities” as already noted, but they are not well adapted to the issues raised by cruise shipping. Thus, whether and to what extent particular profits from cruise shipping can fall within “auxiliary activities” and thereby be covered by Article 8 is not clear from the current language of the UN or OECD Model Commentaries.

36. Paper E/C.18/2014/CRP.1 notes that in many respects the coverage of revenue from “auxiliary activities” in the Commentary to Article 8 is outdated in its text. In some respects the OECD Model Commentary may represent a useful clarification, but it also seems outdated and unclear in places. If cruise shipping is generally regarded by Members as covered by Article 8, any update to this aspect of the Commentary should also provide examples of auxiliary activities in that area also.

37. Relevant considerations may sometimes vary between cruise shipping and airlines. Some might consider, for example that cruise shipping is inherently a broadly based environment, with less emphasis on the pure transport aspect of the operation and more on the “ecosystem” on board and the quality and diversity of the on-board experience; arguably more items may be a part of the primary activity of operation of ships in international traffic or sufficiently related to it to be auxiliary activities in the case of cruise shipping, than in the case of more purely transport related operations.

38. At this point the Secretariat has not sought to analyse in detail particular activities relating to cruise shipping, however, pending Committee decisions on the coverage of cruise shipping and on paper E/C.18/2014/CRP.1. Any such analyses would need to involve a close dialogue with cruise shipping interests as well as government representatives.

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