

Distr.: General
14 October 2009

Original: English

**Committee of Experts on International Cooperation
in Tax Matters**

Fifth Session

Geneva, 19-23 October 2009

Item 6 (j) of the provisional agenda

**General Issues in the Review of Commentaries of the
United Nations Model Double Taxation Convention**

**Note Provided by the Coordinator of the Working Group
on General Issues in the Review of Commentaries**

Summary

At the 2008 Annual Session, the Working Group was tasked to continue its work in considering general issues in the review of the commentaries, with a view to a further paper being available to the new Membership of the Committee in 2009. This note by the Coordinator of the Working Group addresses aspects of the relationship between the UN Model Double Tax Convention and the OECD Model. This Note is based on the work done by the Working Group on General Issues in the Review of Commentaries of the UN Model Convention (Mr. Kharbouch, Mr. Groppoli and Ms. Kana).

* This report should not be taken as necessarily representing the views of the United Nations.

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I. Introduction

1. In order to facilitate the discussion regarding the UN Commentaries this paper attaches two Tables. Table I shows all the quotations in the 2001 UN Commentaries derived from the OECD 1997 Model; Table II deals with the existing differences between both Models, whether there is a UN specific Commentary on such differences and in which case there may be a need for improvement. We have tried to be as accurate as possible but the papers should be understood as draft documents elaborated to be a basis for discussion. This Note is based on the work done by the Working Group on General Issues in the Review of Commentaries of the UN Model Convention (Mr. Kharbouch, Mr. Groppoli and Ms. Kana).

II. Relation between the UN Commentaries and the OECD Commentaries

2. The 2001 UN Model Commentaries extensively quote the OECD Commentaries (in the 1997 version) where the text of both Models is the same (see Table I). Such situation entails some uncertainties regarding the interpretative value of the OECD Commentaries where they are quoted by the UN Model.

3. In fact, as discussed during the fourth meeting of the Committee of Experts, there is no consensus among the members of the Committee about the status of those OECD Commentaries incorporated in the UN Model.

4. Such problem is reflected in the wording of paragraph 9 of the Introduction to the UN Model which states at paragraph 9: *“The United Nations Secretariat therefore prepared a draft model convention [...] consisting of articles reproducing the guidelines formulated by the Group of Experts, together with Commentaries thereon incorporating the views of the members of the Group as expressed at its various meetings and also reproducing, where appropriate, the Commentaries on the Articles of the 1977 Model Double Taxation Convention on Income and on Capital of the Organization for Economic Co-operation and Development, hereafter referred to as the OECD Model Convention. It may be recalled that in preparing the aforementioned guidelines the Group of Experts had decided to use the OECD Model Convention as its main reference text in order to take advantage of the accumulated technical expertise embodied in that Convention and the Commentary thereon, and also for reasons of practical convenience stemming from the fact that the Convention was being used by OECD member countries in the negotiation of tax treaties not only with each other but also with developing countries. However, it was fully understood that there was no presumption of correctness to be accorded to the OECD Model Convention, and that the decisions of the Group were in no way required to be governed by the OECD text.”*

5. It is not clear from this explanation whether text of the OECD Commentaries incorporated into the UN Model constitutes important guidance in itself when interpreting the UN Model or if it is merely of an illustrative value. From the actual text it is not always possible to know what consideration has been given to the OECD text, and as the Introduction specifically

establishes that the OECD Model Convention (presumably including its Commentaries) is not presumed to be correct, the intention of the UN Model may need to be clarified. It also seems confusing that a UN Commentary, before quoting the relevant OECD Commentary, often incorporates throughout its text wording like: “*The OECD Commentary further observes*”, without making any assessment of its immediate relevance to the UN Model clauses.

6. There is also uncertainty in relation to subsequent modifications carried out to the OECD Commentary when the OECD Model text has not changed and the UN Commentary has quoted a previous version of the OECD Commentary. For example, should the modified OECD Commentary have any interpretative value for the UN Model at all? Or is it only the quoted version of the OECD Commentary which should be the applicable instrument for interpretation of the UN Model?

7. In order to provide further clarity it appears necessary to focus the work of the UN Committee on the specific UN Model text which differs from the OECD Model. As shown by Table II there are several clauses where the UN Model distinguishes itself from the OECD Commentary and where there may be a need for further work and clarification by the Committee.

8. The Committee may also want to consider the appropriateness of having UN Commentaries without references to OECD Commentaries, due in particular to the problematic issues referred to above.

9. Undoubtedly, the work and experience included in the OECD Commentaries is of importance for interpretation and common understanding of tax treaties and therefore the UN Model may want to acknowledge such situation. The technical issues and format of which should be decided on by the Committee.

10. In summary, it is suggested to discuss the following issues:

1. What should be the focus of the work on the UN Commentaries?
 2. Inclusion of OECD Commentaries in the UN Model?
 3. Interaction between UN and OECD Models?
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Table I. UN Commentary 2001 - Quotation of OECD Commentary 1997

Article	Quotation
Article 1. Persons Covered. A. General considerations.	UN Model para. 8 reproduces paras. 7 to 10 OECD Model. UN Model para. 9 reproduces paras. 13, 15 and 17 OECD Model. UN Model para. 10 reproduces para. 21 OECD Model. UN Model, para. 11 reproduces para. 22 to 26 OECD Model.
Article 2. Taxes covered by the Convention. A. General considerations B. Commentary on the paragraphs of Article 2	UN Model para. 2 reproduces para. 1 OECD Model. UN Model para. 2 reproduces paragraph 4 and 5, OECD Model.
Article 3. General definitions. B. Commentary on the paragraphs of Article 3.	UN Model para. 12 reproduces para. 13.1 OECD Model. UN Model para. 13 reproduces paras 12 and 13 OECD Model.
Article 4. Resident. A. General considerations. B. Commentary on the paragraphs of Article 4.	UN Model para. 1 reproduces para. 1 OECD Model. UN Model para. 2 reproduces paras 3 to 5 OECD Model. UN Model, para. 4, reproduces paragraph 8, OECD Model. UN Model, para. 6 reproduces para. 8.1 OECD Model. UN Model para. 7 reproduces paras. 9 to 20, OECD Model. UN Model, para. 8 quotes paragraphs 21 and 22 OECD Model UN Model, para. 9 reproduces paras. 23 and 24 OECD Model.
Article 5. Permanent establishment. B. Commentary on the paragraphs of Article 5.	UN Model para. 3 reproduces paras. 2, 3, 4, 5, 6, 7, 8, 10, and 11, OECD Model. UN Model para. 4 reproduces paras. 13 and 15 OECD Model. UN Model para. 11 reproduces paras. 18 to 20 OECD Model. UN Model para. 15 reproduces paras. 16 to 17 OECD Model. UN Model para. 20 reproduces paras. 21 and 27, OECD Model. UN Model para. 21 reproduces paras. 23, 24, 25, 26, 28, 29 and 30 OECD Model. UN Model para. 23 reproduces paragraphs 32 and 33, OECD Model. UN Model para. 28 reproduces paragraphs 36 to 38 OECD Model. UN Model para. 32 reproduces paras. 40, 41 and 42 OECD Model.

<p>Article 6. Income from Immovable Property.</p> <p>B. Commentary on the paragraphs of Article 6.</p>	<p>UN Model para. 6 reproduces para. 1 OECD Model. UN Model para. 9 reproduces para. 4 OECD Model.</p>
<p>Article 7. Business Profits.</p> <p>A. General Considerations</p> <p>B. Commentary on the paras. of Article 7</p>	<p>UN para. 6 reproduces para. 1 and 2 OECD Model.</p> <p>UN Model para. 9 reproduces paras. 3 to 10 OECD Model.</p> <p>UN Model para. 16 reproduces paras. 11, 12, 12.1, 12.2, 13, 14, 15, 15.1, 15.2, 15.3 and 15.4 OECD Model.</p> <p>UN Model para. 19 reproduces paras. 16, 17, 17.1, 17.2, 17.3, 17.4, 17.5, 17.6, 17.7, 18, 18.1, 18.2, 18.3, 19, 21, 22, 23 and 24 OECD Model.</p> <p>UN Model para. 22 reproduces para. 25, 27 and 28, OECD Model.</p> <p>UN Model para. 23 reproduces para. 31 OECD Model.</p> <p>UN Model para. 24 reproduces paras. 32 to 37 OECD Model.</p>
<p>Article 8. Shipping, Inland waterways transport and air transport (alternatives A and B).</p> <p>B. Commentary on the paras. of Articles 8A & 8B.</p>	<p>UN Model para. 1 of Article 8 (alternative A) - paragraph 10 of the UN Commentary reproduces paras. 3 to 14 OECD Model.</p> <p>UN Model para. 2 Article 8 (alternative A) and para. 3 of Article 8 (alternative B) - paragraph 16 of the UN Commentary reproduces paras. 19 to 21 OECD Model.</p> <p>UN Model para. 3 of Article 8 (alternative A) and para. 4 of Article 8 (alternative B) - paragraph 17 of the UN Commentary reproduces para. 22 OECD Model.</p> <p>UN Model para. 4 of Article 8 (alternative A) and para. 5 of Article 8 (alternative B): paragraph 18 of the UN Commentary reproduces paragraphs 23 and 24 OECD Model.</p>
<p>Article 9. Associated Enterprises.</p> <p>A: General Considerations.</p> <p>B. Commentary on the paras of Article 9.</p>	<p>UN Model para. 1 reproduces para. 1 OECD Model.</p> <p>UN Model para. 6 reproduces paras. 3 to 11 OECD Model.</p>
<p>Article 10. Dividends.</p> <p>B. Commentary on the paragraphs of Article 10.</p>	<p>UN Model para. 3 reproduces paras. 7 and 8 OECD Model.</p> <p>UN Model para. 14 reproduces paras. 11 to 22 OECD Model.</p> <p>UN Model para. 15 reproduces paras. 23 to 30 OECD Model.</p> <p>UN Model para. 16 reproduces para. 31 OECD Model.</p> <p>UN Model para. 17 reproduces paras. 33 to 39 OECD Model.</p>

<p>Article 11. Interests.</p> <p>A. General considerations</p> <p>B. Commentary on the paragraphs of Article 11</p>	<p>UN Model para. 5 reproduces paras. 3 and 4 OECD Model.</p> <p>UN Model para. 6 reproduces paras. 5 and 6 OECD Model. UN Model para. 19 reproduces paras. 8 to 17 OECD Model. UN Model para. 20 reproduces paras. 18 to 23 OECD Model. UN Model para. 22 reproduces paras. 26 to 31, OECD Model. UN Model para. 23 reproduces paras. 32 to 36 OECD Model.</p>
<p>Article 12. Royalties.</p> <p>A. General considerations.</p> <p>B. Commentary on the paragraphs of Article 12.</p>	<p>UN para. 3 reproduces paras. 1 and 2 OECD Model.</p> <p>UN para. 12 reproduces paras. 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19 OECD Model.</p> <p>UN Model para. 2 reproduces paras. 22 to 26 OECD Model.</p>
<p>Article 13. Capital Gains.</p> <p>A. General considerations.</p> <p>B. Commentary on the paragraphs of Article 13.</p>	<p>UN Model para. 3 reproduces paras. 1 to 3 OECD Model. UN Model para. 4 reproduces paras. 4 to 21 OECD Model.</p> <p>UN Model para. 5 reproduces paras. 22 and 23 OECD Model. UN Model para. 6 reproduces paras. 24 to 27 OECD Model. UN Model para. 12 reproduces paragraphs 29 to 31 OECD Model.</p>
<p>Article 14. Independent personal services.</p>	<p>UN Model para. 10 reproduces paras 1 to 4 OECD Model.</p>
<p>Article 15. Dependent Personal Services.</p>	<p>UN Model para. 1 reproduces paras. 1, 2, 2.1, 3, 4, 5, 7, 7.1, 8, 9 10 and 11, OECD Model.</p>
<p>Article 16. Director's fees and remunerations of top-level managerial officials.</p>	<p>UN Model para. 1 reproduces paras 1, 1.1 and 3 OECD Model.</p>
<p>Article 17. Artistes and sportspersons</p>	<p>UN Model para. 2 reproduces paras. 1 to 14 OECD Model.</p>
<p>Article 18. Pensions and social security payments (alternative A).</p> <p>Commentary on the paragraphs of Article 18 A.</p>	<p>UN Model para. 3 reproduces paras 1 and 3 OECD Model.</p> <p>UN Model para. 4 reproduces para. 2 OECD Model.</p>

Commentary on the paragraphs of Article 18 B.	UN Model para. 13 reproduces paras. 4 to 37 OECD Model.
Article 19. Government Services.	UN Model para. 2 reproduces paras. 1, 2, 2.1, 2.2, 3, 4, 5 and 6 OECD Model.
Article 20. Students.	UN Model para. 2 reproduces paras. 1 and 2, OECD Model. UN Model para. 3 reproduces paras. 25 to 29, OECD Model.
Article 21. Other Income.	UN Model para. 3 reproduces paras. 2 and 3 OECD Model. UN Model para. 4 reproduces paras. 4 to 6 OECD Model. UN Model para. 7 reproduces paras. 7 to 12 OECD Model.
Article 22. Capital.	UN Model para. 3 reproduces paras. 1 to 7 OECD Model.
Article 23. Methods for the elimination of double taxation. A. General Considerations. B. Commentaries on paragraphs of Article 23A. C. Commentary on paragraphs of Article 23B.	UN Model para. 14 reproduces paras. 1 to 32 OECD Model UN Model para. 14 reproduces paras. 33 to 36 OECD Model. UN Model para. 16 reproduces paras. 37 to 56, OECD Model. UN Model para. 17 reproduces paras. 57 to 79, OECD Model.
Article 24. Non-discrimination.	UN Model para. 2 reproduces paras. 1 to 11, OECD Model. UN Model para. 3 reproduces paras. 2, 13, 14, 15, 16, 17 and 18, OECD. UN Model para. 4 reproduces paras. 19 to 54 OECD Model. UN Model para. 5 reproduces paras. 55 and 56 OECD Model. UN Model para. 7 reproduces paras. 57 to 59 OECD Model. UN Model para. 11 reproduces para. 60 OECD Model.
Article 25. Mutual Agreement Procedure	UN Model para. 3 reproduces paras. 6 to 31 OECD Model. UN Model para. 4 reproduces paras. 32 to 37 OECD Model. UN Model para. 5 reproduces paras. 39 to 42 OECD Model. UN Model para. 9 reproduces paras. 44.1 to 44.7 OECD Model.
Article 26. Exchange of information. A. General considerations. B. Commentaries on paragraphs of Article 26.	UN Model para. 3 reproduces paras. 1 to 3 OECD Model. UN Model para. 26 reproduces paras. 5 to 19, OECD Model.
Article 27. Members of diplomatic missions and consular posts.	UN commentary reproduces paras. 1 to 5 of OECD Model.

Table II. UN Model 2001¹ - OECD Model 2008

Article -Para.	OECD Model 2008	UN Model 2001	Specific UN Commentary
Art. 2 para 4.	The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws.	The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of significant changes made to their tax law.	There is specific UN Commentary (Para. 6 UN Commentary on Art. 2)
Art. 3 para. 1 c)	Definition “enterprise”	n/a	
Art. 3 para 1 f) (g) OECD)	The term “national” in relation to a Contracting State means: i) any individual possessing the nationality or citizenship of that Contracting State...”; and ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State	The term “national” in relation to a Contracting State means: i) any individual possessing the nationality of a Contracting State...”; and ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State	There is specific UN Commentary. Further elaboration may be needed. (Para. 9-11 UN Commentary on Art.3)

¹ Modifications to Art. 26 UN Model agreed by the Committee at its Fourth Meeting in 2008 are included in this paper.

Art. 3 para 1 h)	Definition “business”	n/a	
Art. 4 para. 1.	“...the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof”.	“...the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of incorporation , place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof”.	There is specific UN Commentary. Further elaboration may be needed. (Para. 1 UN Commentary on Art. 4)
Art. 5 para.3.	A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.	a) A building site, a construction, assembly or installation project or supervisory activities in connection therewith , but only if such site, project or activities last more than six months . b) The furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only if activities of that nature continue (for the same or a connected project) within a Contracting State for a period or periods aggregating more than six months within any twelve-month period.	There is specific UN Commentary. Further elaboration may be needed. (Para 7, 8, 10 UN Commentary on Art. 5) There is specific UN Commentary (Para. 9, 10 and 12 UN Commentary on Art. 5) Further elaboration may be needed.
Art. 5 para. 4 b)	“The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery. ”	“The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display.”	There is specific UN Commentary. (Para. 16, 17 and 18 UN Commentary on Art. 5)

Art. 5 para. 5 b)	n/a	“b) Has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.”	There is specific UN Commentary (Para. 24 and 25 UN Commentary on Art. 5)
Art. 5 para. 6	n/a	“Notwithstanding the preceding provisions of this article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.”	There is specific UN Commentary. Further elaboration may be needed. (Para. 26 and 27 UN Commentary on Article 5)
Art. 5 para. 7 (second sentence)	n/a	“...However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, and conditions are made or imposed between that enterprise and the agent in their commercial and financial relations which differ from those which would have been made between independent enterprises, he will not be considered an agent of an independent status within the meaning of this paragraph.”	There is specific UN Commentary (Para. 29, 30 and 31 UN Commentary on Article 5)
Art. 6 para. 4	n/a	Reference to performance of independent personal services	No specific UN Commentary

<p>Art. 7 para 1 (limited force of attraction)</p>	<p>The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment</p>	<p>The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to (a) that permanent establishment; (b) sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or (c) other business activities carried on in that other State of the same or similar kind as those effected through that permanent establishment.</p>	<p>There is specific UN Commentary (Para 7 and 8 UN Commentary on Art.7). Further elaboration may be needed.</p>
<p>Art. 7 para. 3</p>	<p>In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.</p>	<p>In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent</p>	<p>There is specific UN Commentary (Para. 17 and 18 UN Commentary on Art. 7). Further elaboration may be needed.</p>

		<p>establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.</p>	
Art. 7 para. 5	No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods	NOTE: The question of whether profits should be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods	There is specific UN Commentary (Para. 21 UN Commentary on Art. 7)

	or merchandise for the enterprise	and merchandise for the enterprise was not resolved. It should therefore be settled in bilateral negotiations.)	
Art. 8	n/a	Art. 8 alternative B	There is specific UN Commentary (Para. 11 to 14 UN Commentary on Art. 8)
Art. 9 para. 3	n/a	The provisions of paragraph 2 shall not apply where judicial, administrative or other legal proceedings have resulted in a final ruling that by actions giving rise to an adjustment of profits under paragraph 1, one of the enterprises concerned is liable to penalty with respect to fraud, gross negligence or wilful default.	There is specific UN Commentary (Para. 9 UN Commentary on Article 9). Further elaboration may be needed.
Art. 10 para. 2	Limited dividend rates 10/15%	No proposed rates	There is specific UN Commentary. (Para. 4 to 13 UN Commentary on Art. 10)
Art. 10 para 4	n/a	References to independent personal services and fixed base	No specific UN Commentary
Art. 10 para. 5	n/a	References to independent personal services and fixed base	No specific UN Commentary
Art. 11 para. 4 (references to independent personal services and limited force of attraction)	The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, and the debt claim in respect of which the interest is paid is effectively connected with such permanent	The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt claim in respect of which the interest is paid is	There is specific UN Commentary (Para. 21 UN Commentary on Art. 11). Further elaboration may be needed on references to independent personal services.

	establishment. In such case the provisions of Article 7 shall apply.	effectively connected with (a) such permanent establishment or fixed base, or with (b) business activities referred to in (c) of paragraph 1 of article 7. In such cases the provisions of article 7 or article 14 , as the case may be, shall apply.	
Art. 11 para. 5	n/a	References to fixed base	No specific UN Commentary
Art. 12 para. 1-2 (UN)	Residence taxation	Limited rate at source	There is specific UN Commentary (Para. 4 to 11 UN Commentary on Art. 12). Further clarification may be needed.
Art. 12 para. 3	The term “royalties” as used in this article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trademark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.	The term “royalties” as used in this article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes used for radio or television broadcasting , any patent, trademark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific experience.	Mention to differences on Para. 12 UN Commentary on Article 12. Further elaboration may be needed.
Art. 12 para 4	n/a	The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in	There is specific UN Commentary. (Para. 18 UN Commentary on Art. 12)

		that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with (a) such permanent establishment or fixed base, or with (b) business activities referred to in (c) of paragraph 1 of article 7. In such cases the provisions of article 7 or article 14, as the case may be, shall apply.	
Art. 12 para 5	n/a	Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.	There is specific UN Commentary. (Paras. 19 and 20 UN Commentary on Art. 12)
Art. 13 para. 2	n/a	References to fixed base and independent personal services	No specific UN Commentary
Art. 13 para. 4	Gains derived by a resident of a Contracting State from the alienation of shares deriving more than 50 per cent of their value directly or indirectly from immovable	Gains from the alienation of shares of the capital stock of a company, or of an interest in a partnership, trust or estate, the property of which consists directly or indirectly principally of	There is specific UN Commentary. (Para 8 UN Commentary on Article. 13). Further elaboration may be needed.

	property situated in the other Contracting State may be taxed in that other State.	immovable property situated in a Contracting State may be taxed in that State. In particular: (1) Nothing contained in this paragraph shall apply to a company, partnership, trust or estate, other than a company, partnership, trust or estate engaged in the business of management of immovable properties, the property of which consists directly or indirectly principally of immovable property used by such company, partnership, trust or estate in its business activities. (2) For the purposes of this paragraph, “principally” in relation to ownership of immovable property means the value of such immovable property exceeding 50 per cent of the aggregate value of all assets owned by the company, partnership, trust or estate.	
Art. 13 para 5 (UN Model)	n/a	Gains from the alienation of shares other than those mentioned in paragraph 4 representing a participation of ____ per cent (the percentage is to be established through bilateral negotiations) in a company which is a resident of a Contracting State may be taxed in that State.	There is specific UN Commentary. (Para. 9 to 11 UN Commentary on Article 13) Further elaboration may be needed.
Art. 14	n/a	Article on Independent personal services	There is specific UN Commentary. (Para. 1 to 9 UN Commentary on Art. 14) Further elaboration may be needed.

Art. 16 para. 2 (UN Model)	n/a	Salaries, wages and other similar remuneration derived by a resident of a Contracting State in his capacity as an official in a top-level managerial position of a company which is a resident of the other Contracting State may be taxed in that other State.	There is specific UN Commentary. (Para. 3 and 4 UN Commentary on Art. 16). Further elaboration may be needed.
Art. 17 para. 1-para 2		References to article 14	No specific UN Commentary.
Art. 18 para. 2 alternative A UN Model	n/a	“2. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under a public scheme which is part of the social security system of a Contracting State or a political subdivision or a local authority thereof shall be taxable only in that State.”	There is specific UN Commentary. (Para 4 to 7 UN Commentary on Art. 18)
Art. 18 alternative B UN Model	n/a	UN Model text	There is specific UN Commentary (Para. 8 and 9 UN Commentary on Art. 18). Further elaboration may be needed.
Art. 19 para 1 a)	Salaries, wages and other similar remuneration paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.	Salaries, wages and other similar remuneration, other than a pension , paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.	No specific UN Commentary
Art. 19 para 2 a)	Notwithstanding the provisions of paragraph 1 , pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or a political	Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or	No specific UN Commentary.

	subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.	authority shall be taxable only in that State.	
Art. 19 para 2 b)	However, such pension and other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that other State.	However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that other State.	No specific UN Commentary
Art. 20	Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided	Payments which a student or business trainee or apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided	There is specific UN Commentary. (Para. 4 UN Commentary on Art. 20)
Art. 21 para. 2	n/a	References to art. 14 and independent personal services.	No specific UN Commentary.
Art. 21 para. 3	n/a	Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing articles of this Convention and arising in the other Contracting State may also be taxed in that other State.	There is specific UN Commentary. (Paras. 5 and 6 UN Commentary). Further elaboration may be needed.
Art. 22 para. 2	n/a	References to independent personal services	No specific UN Commentary.

Art. 22. Note UN Model	n/a	The Group decided to leave to bilateral negotiations the question of the taxation of the capital represented by immovable property and movable property and of all other elements of capital of a resident of a Contracting State. Should the negotiating parties decide to include in the Convention an article on the taxation of capital, they will have to determine whether to use the wording of paragraph 4 as shown or wording that leaves taxation to the State in which the capital is located.)	No further UN Commentary
Art. 25 para. 4	The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.	The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs. The competent authorities, through consultations, shall develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this article. In addition, a competent authority may devise appropriate unilateral procedures, conditions, methods and techniques to facilitate the above-mentioned bilateral actions and the implementation of the mutual agreement	There is specific UN Commentary. (Para. 5-8 and 10-36 UN commentary on Art. 25)

		procedure.	
Art. 25 para 5	Arbitration clause	n/a	
Art. 26 para. 1 (UN Model as approved by the Committee on its 4 th session 2008)	The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws of the Contracting States concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by articles 1 and 2.	The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws of the Contracting States concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. In particular, information shall be exchanged that would be helpful to a Contracting State in preventing avoidance or evasion of such taxes. The exchange of information is not restricted by articles 1 and 2.	There is specific UN Commentary (Paras. 4.2.and 4.3 proposed UN Commentary on Art. 26)
Art. 26 para. 2	Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect	Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State. However, if the information is originally regarded as secret in the transmitting State, it shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the	There is specific UN Commentary. (Paras. 11 to 14.1 proposed UN Commentary on Article 26 para.2)

	of, or the determination of appeals in relation to, the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.	assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.	
Art. 26 para. 6	n/a	The competent authorities shall, through consultation, develop appropriate methods and techniques concerning the matters in respect of which exchanges of information under paragraph 1 shall be made.	There is specific UN Commentary. (Paras. 29 to 29.4 UN proposed Commentary on Art. 26 para. 6)
Art. 27 OECD Model	Article on Assistance in the collection of taxes	n/a	
Art. 29 OECD Model	Article on Territorial extension	n/a	
Terminal Clause	The terminal clause concerning the signing shall be drafted in accordance with the constitutional procedure of both Contracting States.	The provisions relating to the entry into force and termination and the terminal clause concerning the signing of the Convention shall be drafted in accordance with the constitutional procedure of both Contracting States.	