Universidade de Lisboa

Faculdade de Direito

A evolução das convenções de dupla tributação do Brasil

Danilo da Fonseca Crotti

Mestrado em Direito e Prática Jurídica

Especialidade de Direito Financeiro e Fiscal

Lisboa

2020

Faculdade de Direito

A evolução das convenções de dupla tributação do Brasil

Dissertação apresentada para obter grau de Mestre no Mestrado em Direito e Prática Jurídica Especialidade de Direito Financeiro e Fiscal pela Faculdade de Direito de Lisboa

Danilo da Fonseca Crotti

Orientador: Professor Doutor Gustavo Lopes Courinha

Lisboa

2020

Lista de abreviaturas

BRICS – Acrônimo representado pela coordenação entre Brasil, Rússia, Índia, China e África do Sul.
CDT – Convenção de Dupla Tributação
CM – Convenção Modelo de Dupla Tributação
CM OCDE – Convenção Modelo da Organização para a Cooperação e Desenvolvimento Econômico
CM ONU – Convenção Modelo da Organização das Nações Unidas
MERCOSUL – Mercado Comum do Sul
OCDE – Organização para a Cooperação e Desenvolvimento Econômico
OCEE – Organização para a Cooperação Econômica Europeia
OMC – Organização Mundial do Comércio
ONU – Organização das Nações Unidas

Índice

Resumo

A expansão do comércio mundial após o término da Segunda Guerra (1939-1945) intensificou as relações entre Estados e permitiu a criação de cadeia de suprimentos global. Essa nova realidade, para a época, implicou na necessidade de regulamentação jurídica destas relações, seja entre os próprios Estados enquanto entes de Direito Público, ou entre os Estados e pessoas de direito privado, assim como entre as pessoas de direito privado.

Em paralelo, o Direito Fiscal (ou Tributário) se tornou tema de grande debate entre os Estados no cenário internacional, em especial nas organizações internacionais, tal como a ONU – Organização das Nações Unidas quanto a OCDE – Organização para a Cooperação e Desenvolvimento Econômico, tendo em vista que o aumento das relações comerciais internacionais implicou na majoração de fluxo financeiro entre os Estados. Considerando que a produção e manutenção de riqueza é o objeto de análise do Direito Fiscal, fundamental para financiar a atividade estatal, nada mais que óbvio o interesse dos Estados em regulamentar a crescente relação comercial internacional entre pessoas de Direito Privado ou Público.

Nesse contexto, a celebração de acordos ou convenções para evitar a dupla tributação ou não-tributação entre Estados é importante tanto para assegurar rendimentos para o funcionamento do próprio Estado quanto para captar novos investimentos e fomentar sua economia interna.

Consequentemente, não obstante existir modelos de convenções de dupla tributação criados por organismos internacionais, compete aos Estados firmarem acordos bilaterais ou multilaterais, utilizando ou não as regras das convenções modelos como base, para facilitar a relação jurídica (fiscal) entre Estados e pessoas de direito privado e público.

O presente trabalho, portanto, tem como objetivo analisar os acordos de dupla tributação em vigor na República Federativa do Brasil, comparando-os com as convenções modelos da OCDE e ONU.

Palavras-chave: dupla tributação, convenções, Brasil.

Abstract

The expansion of world trade after the end of the World War II (1939-1945) intensified relations between States and allowed the creation of global supply chain. This new reality, at that time, implied the need for legal regulation of these relations, either between States themselves as entities of Public Law, or between States and private persons, as well as between private persons.

In parallel, Tax Law has become a topic of great debate among States on the international stage, especially in international organizations, such as the UN – United Nations Organization as regards the OECD – Organization for Cooperation and Development Economic, in view of the fact that the increase in international trade relations implied an increase in the financial flow between the States. Considering that the production and maintenance of wealth is the object of analysis of Tax Law, fundamental to finance state activity, nothing more than obvious the interest of States in regulating the growing international commercial relationship between people of private or public sectors.

Thereby, the conclusion of agreements or conventions to avoid double taxation or non-taxation between States is important to ensure income for the functioning of State itself and to attract new investments and foster its domestic economy.

Consequently, despite the existence of models of double taxation conventions created by international organizations, it is up to the States to conclude bilateral or multilateral agreements, using or not rules of the model conventions as a basis, to facilitate the legal (fiscal) relationship between State and private/public persons.

The present work, therefore, aims to analyze the double taxation agreements in force in the Federative Republic of Brazil, comparing them with the OECD and UN model conventions.

Keywords: double taxation, conventions, Brazil.

1. Introdução

O Brasil[1] é de longa data, muito em virtude de sua dimensão continental e riquezas minerais, umas das dez maiores economias do mundo. O país divide estas primeiras posições com os Estados Unidos da América, China, Japão, França, Alemanha, Reino Unido, Canadá, Itália, sempre presentes nesta lista, e com pequena variação nas últimas posições entre Índia, Coréia do Sul e Rússia, sendo que no último ano estes dois últimos países estiveram ausentes nesta lista.

Não obstante esta riqueza, ao analisar os dados econômicos[2] do Brasil, verifica-se que grande parte da economia se origina em seu próprio mercado interno e, com relação ao mercado internacional, majoritariamente em decorrência das exportações de commodities (tais como soja, minério de ferro, petróleo cru e açúcar bruto) e a importação de produtos manufaturados de alto valor agregado (tais como medicamentos, peças de veículos e eletrônicos). Além disso, tanto as exportações como as importações estão altamente concentradas nas relações comerciais com os Estados Unidos da América, a China, a Alemanha e os países que integram o bloco econômico do Mercosul[3]. Dessa forma, é possível compreender as constantes críticas feitas pelo atual Ministro da Economia[4] de que o Brasil é um país fechado economicamente.

Essa característica econômica do país reflete na ordem jurídica, em especial no direito tributário internacional e, para fins do presente trabalho, na celebração de convenções para se evitar a dupla tributação jurídica internacional.

Atualmente o Brasil possui em vigência 32 Convenções de Dupla Tributação (CDT) bilaterais[5], com os seguintes países: África do Sul, Argentina, Áustria, Bélgica, Canadá, Chile, China, Coreia do Sul, Dinamarca, Equador, Espanha, Filipinas, Finlândia, França, Hungria, Índia, Israel, Itália, Japão, Luxemburgo, México, Noruega, Países

[1] República Federativa do Brasil, neste trabalho será designado somente como Brasil.
[2] The Observatory of Economic Complexity. Disponível em: https://atlas.media.mit.edu/pt/ . Acesso em 05 de julho de 2019.
[3] MERCOSUL – Mercado Comum do Sul. Integram este Bloco Econômico os seguintes países: Brasil, Argentina, Paraguai, Uruguai, Venezuela. A Bolívia possui o *status* de Estado Associado em processo de adesão.
[4] Paulo Guedes - atual Ministro da Economia no Brasil (2019-2020).
[5] Ministério da Economia. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/acordos-para-evitar-a-dupla-tributacao . Acesso em 05 de julho de 2019.

Baixos, Peru, Portugal, Tchecoslováquia[6], Rússia, Suécia, Trinidad e Tobago, Turquia, Ucrânia, Venezuela.

Importante verificar que, não obstante os Estados Unidos da América e a Alemanha serem os principais parceiros econômicos do Brasil no cenário internacional, não há acordo para se evitar a dupla tributação jurídica entre os países.[7]

Além disso, dentre as dez maiores economias do mundo, o Brasil é o país com o menor número de CDT's celebradas e em vigência:

País	**Número de CDT's assinadas**
EUA[8]	68
China[9]	107
Japão[10]	74
Alemanha[11]	96
França[12]	124
Reino Unido[13]	149
Índia[14]	94
Itália[15]	102
Canadá[16]	93

[6] Com a divisão da Tchecoslováquia entre a Eslováquia e a República Tcheca, a CDT celebrada originariamente é aplicada indistintamente aos dois novos países.

[7] Tanto a relação Brasil-EUA e Brasil-Alemanha, do ponto de vista do direito tributário internacional, se desenvolve sob o princípio da reciprocidade, ou seja, o Brasil permite que seus residentes deduzam os da apuração dos impostos sobre a renda e sobre o capital, o valor do imposto recolhido nos EUA ou Alemanha, respectivamente, até o limite do imposto que deveria ser recolhido no Brasil, caso a operação não envolvesse um destes países. O Brasil e a Alemanha possuíam CDT assinada e vigente desde 1976, porém em 2005 a Alemanha optou por denunciar o acordo, já que o Brasil excluía da aplicação da CDT alguns tributos similares ao imposto sobre a renda. Portanto, desde 01 de janeiro de 2006 não está vigente o referido acordo.

[8] Internal Revenue Service (IRS). Disponível em: https://www.irs.gov/businesses/international-businesses/united-states-income-tax-treaties-a-to-z . Acesso em 05 de julho de 2019.

[9] State Taxatation Administration (STA). Disponível em: http://www.chinatax.gov.cn/eng/n2367756/index.html . Acesso em 05 de julho de 2019. A China possui atualmente 99 CDT's vigentes, sendo que 08 CDT's já foram celebradas e ratificadas pelo país e aguardam início da vigência.

[10] Ministry of Finance. Disponível em: https://www.mof.go.jp/english/tax_policy/tax_conventions/international_182.pdf . Acesso em 05 de julho de 2019. As CDT's assinadas pelo Japão possuem vigência em mais de 130 jurisdições.

[11] Federal Ministry of Finance. Disponível em https://www.bundesfinanzministerium.de/Web/EN/Issues/Taxation/Double-taxation/double-taxation.html . Acesso em 05 de julho de 2019.

[12] PwC Franc. Disponível em: http://taxsummaries.pwc.com/ID/France-Individual-Foreign-tax-relief-and-tax-treaties . Acesso em 05 de julho de 2019.

[13] HM Revenue & Customs. Disponível em: https://www.gov.uk/government/collections/tax-treaties . Acesso em 05 de julho de 2019.

[14] Income Tax Department. Disponível em: https://www.incometaxindia.gov.in/Pages/international-taxation/dtaa.aspx . Acesso em 05 de julho de 2019.

[15] Dipartimento delle Finanze. Disponível em: https://www.finanze.gov.it/opencms/it/fiscalita-comunitaria-e-internazionale/convenzioni-e-accordi/convenzioni-per-evitare-le-doppie-imposizioni/index.html . Acesso em 05 de julho de 2019.

[16] Department of Finance. Disponível em: https://www.fin.gc.ca/treaties-conventions/in_force--eng.asp . Acesso em 05 de julho de 2019.

Diante desse contexto, temos como objetivo no presente trabalho analisar a evolução das Convenções de Dupla Tributação em vigor no Brasil, comparando-as com as Convenções modelos da OCDE – Organização para a Cooperação e Desenvolvimento Econômico e ONU – Organização das Nações Unidas, modelos estes que são a base de mais de 85% das convenções de dupla tributação celebradas a nível mundial, para identificar os avanços e retrocessos existentes nas relações de direito tributário internacional pelo Brasil.

A conclusão deste trabalho terá como objetivo demonstrar os rumos que as futuras (e até a alteração das antigas) CDT's a serem assinadas pelo Brasil deverão tomar, avistando-se no horizonte o interesse do país em ingressar no quadro de membros efetivos da OCDE.

2. Contexto histórico das convenções de dupla tributação jurídica internacional

2.1.As convenções modelos da ONU e OCDE

A dupla tributação jurídica internacional pode ser definida como a imposição de impostos comparáveis entre dois ou mais Estados sobre um mesmo contribuinte, a respeito de uma mesma matéria e idêntico período[17]. Atualmente, os impostos comparáveis mais comuns de se identificar no direito internacional são os impostos sobre a renda e sobre o capital.

O tema da dupla tributação jurídica internacional já se mostrava como uma situação importante a ser solucionada pelos Estados desde o século XIX, para eliminar os obstáculos que a dupla tributação apresenta ao desenvolvimento das relações comerciais entre países.

Na primeira metade do século XIX, identifica-se que as convenções celebradas pelos Estados possuíam alcance limitado na esfera tributária, tratando, basicamente, de questões de assistência fiscal entre os signatários do acordo.

A partir da segunda metade do século XIX, observa-se a celebração das primeiras convenções efetivamente preocupadas em estabelecer limitações à dupla tributação jurídica de rendimentos. Nota-se que estas convenções foram celebradas entre Estados que eram aliados ou possuíam vínculos políticos. É o caso da convenção entre a Prússia e a Saxónia relativa a impostos diretos, de 16 de abril de 1869, das convenções entre a Áustria e a Hungria relativas à tributação de empresas comerciais e industriais, de 18 de dezembro de 1869 e de 07 de janeiro de 1870, e da convenção entre a Áustria e a Prússia relativa a eliminação da dupla tributação (abordada pela primeira vez de forma global), de 21 de junho de 1899.[18]

Não obstante estes primeiros exemplos de celebração de convenções bilaterais, observa-se que foi a partir do século XX, mais precisamente na década de 20,

---

[17] O Prof. Alberto Xavier possui entendimento de que a identidade de período seria exigível em impostos periódicos por natureza, tal como o imposto de renda. Contudo, este requisito não seria exigido em outros tipos de impostos, tal como nos impostos sobre o consumo, em que seria preponderante o critério da identidade do objeto, sendo a identidade do período irrelevante para caracterizar a dupla tributação jurídica. (XAVIER, Alberto. *Direito Tributário Internacional*, 2ª edição atualizada, Ed. Almedina, 2017, p. 33-36).

[18] PEREIRA, Paula Cristina dos Santos Rosado. *Convenções sobre Dupla Tributação e Direito Comunitário Tributário*, 2009. Tese de Doutoramento em Direito pela Universidade de Lisboa – Faculdade de Direito, p. 21).

após o fim da Primeira Guerra Mundial, que os Estados, unidos em organizações internacionais, intensificaram os trabalhos de cooperação em matéria fiscal, objetivando otimizar o intercâmbio de informações, de assistência na cobrança de impostos e padronizar tais normas, a fim de evitar a evasão e a elisão fiscais. Como exemplo, temos a Liga das Nações ou Sociedade das Nações, organização intergovernamental fundada em 10 de janeiro de 1920, que conduziu seus países membros a elaboração do primeiro modelo de convenção bilateral em 1928[19].

Em que pese este primeiro modelo de convenção não ter sido aceito ou seguido de forma unânime pelos países membros da organização, os princípios nele inseridos foram utilizados, com certas variantes, em muitas das convenções bilaterais celebradas durante a década seguinte.

Com o rompimento da Segunda Guerra Mundial, contudo, verifica-se a instabilidade da união dos membros da Liga das Nações e, consequentemente, o encerramento deste organismo internacional, que veio a ser sucedido pela Organização das Nações Unidas (ONU), criada em 1945, e em paralelo pela Organização para a Cooperação Econômica Europeia (OCEE), criada em 1948, posteriormente rebatizada de Organização para a Cooperação e Desenvolvimento Econômico (OCDE), em 1961.[20]

A crescente interdependência econômica e a cooperação dos países membros da ONU e da OCDE no período pós-guerra mostraram cada vez mais evidente a importância de medidas destinadas a prevenir a dupla tributação jurídica internacional. Ao mesmo tempo, mostrou-se um desafio aos Estados a harmonização destas convenções, em conformidade com princípios, definições, regras e métodos uniformes, e o acordo sobre uma interpretação comum, a fim de facilitar a circulação de pessoas, bens e capitais entre os países membros.

---

[19] O modelo de convenção de 1928 estabelecia: Parte I – Tratamento de Estrangeiros; Capítulo I – Salvaguardas para o Comércio Internacional; Capítulo II – Estabelecimento de Estrangeiros; Seção A – Liberdade de Viajar, Estadia e Estabelecimento; Seção B – Exercício do Comércio, Indústria e Ocupação; Seção C – Garantias cíveis e legais; Seção D – Direitos de Propriedade; Seção E – Cobranças Excepcionais; Seção F – Tratamento Fiscal; Seção G – Aplicação de Parte dos Artigos Precedentes aos Nacionais não Estabelecidos no território do outro Estado Contratante; Parte II – Tratamento de Empresas Estrangeiras; Parte III – Provisões Gerais; Capítulo I – Extensão ou Restrição da Convenção por Acordo ou Ação Independente; Capítulo II – Garantia de Igualdade; Capítulo III – Acordo de Disputas em relação a Interpretação ou Aplicação da Convenção; Capítulo IV – Assinatura, Ratificação, Adesão, Vigência e Denúncia da Convenção; Capítulo V – Cláusula Colonial; Capítulo VI – Reservas Gerais.

[20] Outras organizações internacionais também surgiram no período pós segunda guerra, porém estas duas organizações mencionados são as que mais se destacaram e expandiram no cenário mundial, razão pela qual focaremos nossa análise nos modelos de convenções desenvolvidos por elas.

Nesse contexto, em meados de 1950 a OCDE estabeleceu um Comitê Fiscal com o objetivo de criar um projeto de Convenção para resolver eficazmente os problemas de dupla tributação existentes entre os países membros e que seria aceitável para todos os Estados, sendo que em 1963 foi emitido o relatório final pelo Comitê intitulado *Convenção de dupla tributação sobre renda e capital*, que originou a primeira convenção modelo da referida organização internacional.

Paralelamente, a ONU estabeleceu no fim da década de 60 um grupo *ad hoc* de peritos em tratados fiscais entre países desenvolvidos e em desenvolvimento, também com o objetivo de estabelecer um modelo de convenção para evitar a dupla tributação jurídica entre os diferentes países que pertenciam a organização. Em 1980, após as conclusões do grupo *ad hoc*, as Nações Unidas publicaram sua convenção modelo de dupla tributação entre países desenvolvidos e em desenvolvimento

Enquanto já publicada sua primeira convenção modelo em 1963, a OCDE procedeu a revisão deste documento, tendo em conta a experiência adquirida pelos países membros na negociação e aplicação prática de convenções bilaterais, de alterações nos sistemas fiscais dos países membros, do aumento das relações fiscais internacionais e do desenvolvimento de novos setores da atividade empresarial e da novas organizações empresariais complexas a nível internacional, o que resultou na publicação em 1977 da revisão da convenção modelo de 1963 e respectivos comentários.

Tanto o Comitê Fiscal constituído pela OCDE quanto o grupo *ad hoc* de peritos criado pela ONU continuam a existir nestas organizações, com pequenas variações de nomenclatura, sendo os órgãos responsáveis por analisar a evolução do tema da dupla tributação jurídica internacional entre os países membros de cada grupo e a sugerir atualizações e mudanças nos respectivos modelos de convenções de dupla tributação. Tanto é que a convenção modelo da ONU foi atualizada nos anos de 1997, 2001 e 2017, enquanto a convenção modelo da OCDE, além da atualização de 1977 já mencionada, teve alterações em 1992, 1998, 2000, 2003, 2005, 2008, 2010, 2014 e 2017.[21][22]

Tanto o modelo da ONU quando da OCDE tiveram uma profunda influência na prática dos Tratados Internacionais, sendo que mais de 85% das convenções de dupla tributação vigentes no mundo possuem como base ao menos um destes modelos. Com

[21] As convenções modelos da ONU e OCDE mencionadas se encontram em anexo no presente trabalho.
[22] A convenção modelo da OCDE de 2017 já incorpora em seu texto parte das ações que constam no projeto BEPS – *Base Erosion and Profit Shifting*, indicando o caminho a ser seguido pela organização internacional nas futuras atualizações do modelo.

relação ao Brasil, possível afirmar que 100% de suas convenções possuem como base ao menos um dos modelos da ONU ou OCDE[23].

Estes modelos possuem disposições comuns, demonstrando a preocupação destas organizações de padronizar as relações jurídicas internacionais de seus membros, ao mesmo tempo que possuem diferenças significativas em determinados pontos, que demonstram a particularidade de cada organismo internacional ao tratar da dupla tributação jurídica internacional. Por exemplo, a convenção modelo da ONU, por focar na relação de países desenvolvidos e em desenvolvimento, favorece geralmente a retenção de maior parte de um imposto previsto na convenção no país de origem do rendimento – país de acolhimento de investimento – se comparado com o país de residência do investidor; por sua vez, a convenção modelo da OCDE favorece geralmente o país de residência do investidor, evidenciando uma tendência de privilegiar os países exportadores de capital – país de origem do investimento.

Os modelos da ONU e da OCDE, em que pese não ser mandatória a adoção pelos países membros ou não membros quando celebram uma convenção de dupla tributação, contém padrões mínimos de governança fiscal recomendada pelas respectivas organizações internacionais, os quais, caso não seguidos pelos Estados, podem ocasionar em sanções políticas e, de forma reflexa, sanções comerciais. Por exemplo, periodicamente a OCDE edita lista de países, territórios e regiões com tributação privilegiada claramente mais favoráveis, para os quais os contribuintes que possuam relações econômicas, financeiras e comerciais são desfavoravelmente tributados se comparados com países não incluídos nesta lista.

Portanto, em que pese ser optativa a adoção das convenções modelo da ONU e da OCDE, segui-las indicará que os países signatários estão na vanguarda das regras internacionais de dupla tributação, razão pela qual, como dito, o conteúdo dos respectivos modelos está presente na maioria das convenções em vigor no mundo.

2.2. As convenções de dupla tributação em vigor no Brasil

O Brasil é um dos países fundadores das Nações Unidas, organismo do qual faz parte como membro desde 1945. Com relação a OCDE, o Brasil não é um país

[23] As 32 convenções de dupla tributação vigente no Brasil possuem como base as cláusulas das convenções modelo da ONU e/ou OCDE, com pequenas modificações para se adequar a necessidade de cada país com o qual o país celebrou o acordo.

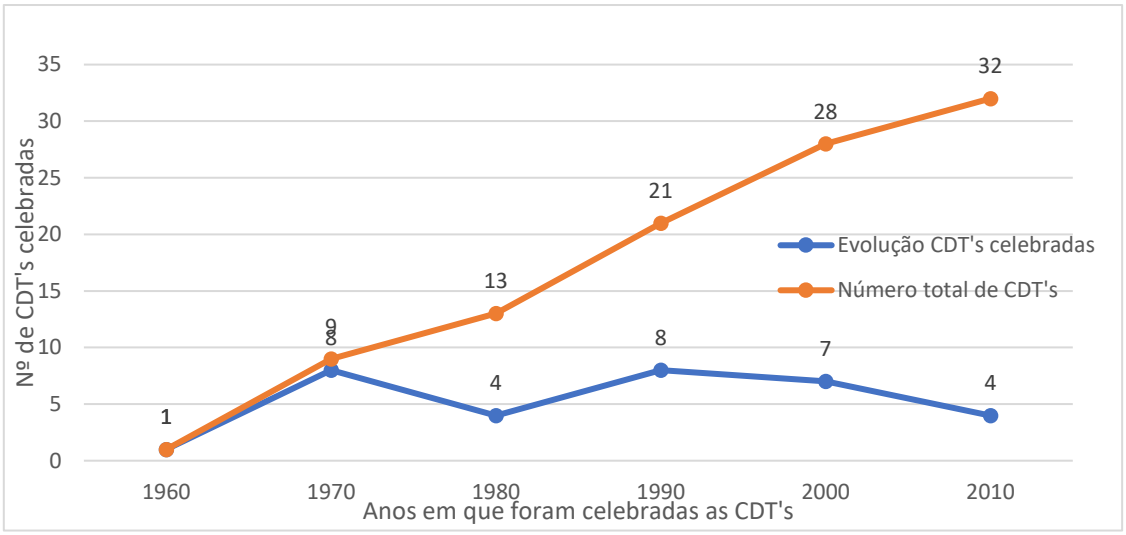
membro, porém é considerado parceiro chave da organização desde meados de 1990[24]. Mesmo não sendo membro da OCDE, verifica-se que os tratados celebrados pelo país desde a década de 1960 já possuem grande influência das convenções modelos de 1963 e 1977.

A CDT mais antiga, ainda em vigor no Brasil, foi celebrada com o Japão em 1967[25]. Já a CDT mais recente em vigor, do ano 2017, foi celebrada com a Rússia. Das convenções vigentes, cerca de 28% foram celebradas nas décadas de 1960 e 1970, 13% celebradas na década de 1980, 25% celebradas na década de 1990, 22% celebradas nos anos 2000 e, por fim, 13% celebradas a partir de 2010 até o presente momento.

O ritmo de convenções celebradas pelo país demonstra como a política interna interfere diretamente em suas relações internacionais. Nas décadas de 1960 e 1970, o país vivia sob o então regime da ditadura militar, iniciada em 1964, em que o Governo Central buscava se legitimar internacionalmente, período em que foi celebrado a maior quantidade de convenções bilaterais de dupla tributação do país. Na década de 1980, já com o regime da ditadura militar em crise e toda a instabilidade política daí advinda, a ser substituído pelo "período democrático" gradativamente a partir de 1985, o país se limitou a celebrar 04 convenções. Na década de 1990, já restaurado o regime democrático, note-se a retomada dos acordos bilaterais, com a celebração de 08 convenções, seguido pela celebração de 07 convenções nos anos 2000 e 04 convenções após 2010. Se somados as CDT's celebradas após a restauração do regime democrático, observa-se que 59% dos acordos bilaterais foram feitos nesse período. Porém, se observar a última década, apenas 13% das convenções foram celebrados, período em que se retomou a instabilidade política no país, por exemplo, houve o *impeachment* do Presidente eleito em 2014 sob a acusação de corrupção.

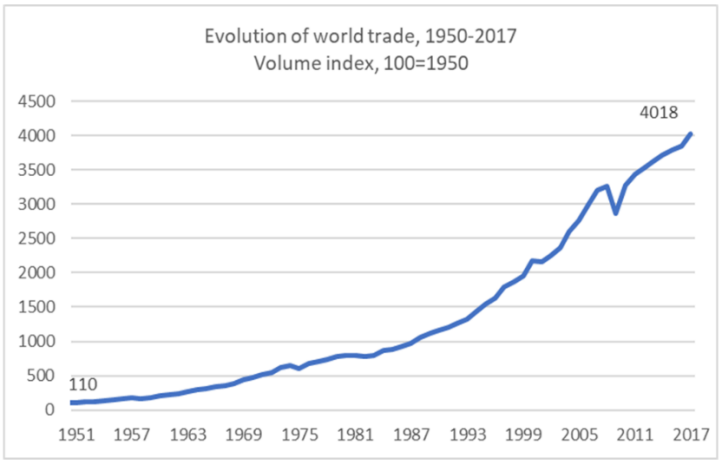
[24] Em 1996, durante o mandato do Presidente Fernando Henrique Cardoso, o Brasil ingressou em seu primeiro comitê na OCDE, o Comitê do Aço. Desde então, a parceria entre a organização internacional e o pais vêm se estreitando, sendo que no ano de 2017 o Brasil apresentou sua candidatura à membro da OCDE, a qual ainda aguarda análise. Disponível em: https://www.oecd.org/brazil/Active-with-Brazil.pdf . Acesso em 12 de julho de 2019.

[25] Posteriormente alterada em 1976.



Observa-se, portanto, que a instabilidade política interna do Brasil interfere diretamente na forma como o país se relaciona no cenário internacional, no caso sob análise, com relação a celebração de convenções de dupla tributação, instrumento normativo fundamental para garantir a segurança jurídica nas relações comerciais internacionais e estabelecer às claras as regras de tributação a que tanto os residentes que investem no exterior quanto os estrangeiros que invistam no país estarão submetidos quando envolver um elemento de conexão estabelecido no país.

Em paralelo, analisando-se as estatísticas fornecidas pela Organização Mundial do Comércio[26], verifica-se que o volume do comércio internacional, desde a década de 1950 até os dias atuais, ultrapassou a percentagem de 4.000% de crescimento.



[27]

[26] World Trade Organization. Disponível em: https://data.wto.org/ . Acesso em 12 de julho de 2019.
[27] Gráfico extraído do site da Organização Mundial do Comércio. Disponível em: https://www.wto.org/english/res_e/statis_e/trade_evolution_e/evolution_trade_wto_e.htm#fnt-2 . Acesso em 12 de julho 2019.

Ao analisar o gráfico acima, é possível identificar que o comércio internacional se intensifica no final da década de 1980 e começo da década de 1990, quando, do ponto de vista político, assistimos à extinção da União Soviética, simbolicamente representada pela queda do muro de Berlim.

Por ser um dos maiores produtores de produtos agrícolas do mundo, o Brasil se beneficiou desta expansão do comércio internacional, por exemplo, passando a exportar de R$ 55 bilhões de reais em 2000 para R$ 225 bilhões de reais até 2014. Neste período, a participação do país no mercado mundial passou de 0,85% para 1,19%.

Contudo, comparado a países como a China e a Índia, que também fazem parte do bloco denominado BRICS[28], que cresceram sua participação no mercado mundial, no mesmo período, de 3,86% para 12,34% e de 0,66% para 1,70%, respectivamente, assim como a Rússia, que detinha em 2014 uma participação de 2,63%, observa-se a falta de planejamento do Brasil em suas relações internacionais, como se o país ainda não tivesse compreendido adequadamente a importância da globalização para sua economia.

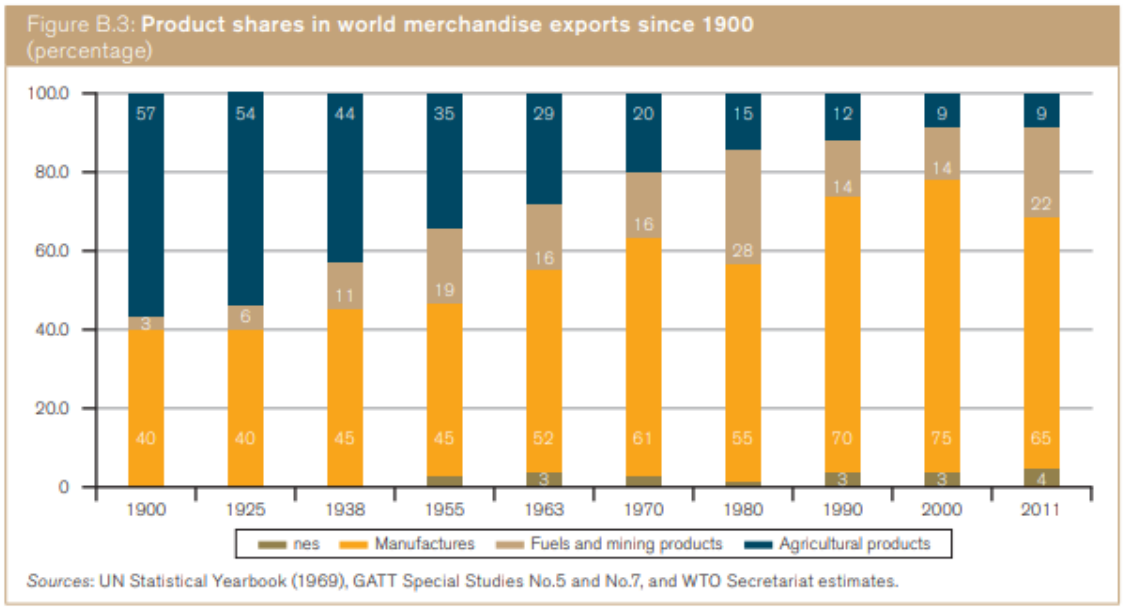
Essa situação está refletida diretamente na quantidade de CDT's celebradas e em vigor no país, destacando, ainda, que os dois principais países parceiros do Brasil no comércio internacional, não possuem expressamente acordos para se evitar a dupla tributação.

A natureza das relações comerciais internacionais do país, representada majoritariamente pela exportação de produtos agrícolas e matérias-primas e importação de produtos manufaturados, demonstra também como a país se posiciona nas negociações bilaterais em acordos para evitar a dupla tributação, apontando-se mais para a posição de país importador de capital (país de destino) do que país exportador de capital (país de origem). Este posicionamento impacta diretamente na forma de tributação dos dividendos, royalties e juros.

Essa situação, para uma das dez maiores economias do mundo, poderá se transformar em uma armadilha ao crescimento do país, caso o governo brasileiro não

[28] O BRICS é o acrônimo representado pela coordenação entre Brasil, Rússia, Índia, China e África do Sul, e passou a constituir mecanismo de cooperação em áreas que tenham o potencial de gerar resultados concretos a estes países. Disponível em: http://www.itamaraty.gov.br/pt-BR/politica-externa/mecanismos-inter-regionais/3672-brics . Acesso em 12 de julho de 2019.

adote um planejamento de longo prazo na política relacionada ao comércio internacional, tendo em vista que a comercialização de produtos agrícolas no mundo, passou de um percentual de 57% do comércio internacional desde 1900 para menos de 9% a partir de 2011, segundo os dados da Organização Mundial do Comércio.



[29]

Diante deste contexto, pretende-se no presente trabalho, porém sem a intenção de esgotar o assunto, comparar as CDT's celebradas pelo Brasil às convenções modelos da OCDE e ONU, para identificar, em especial na seara do direito tributário internacional, como o país se posiciona com seus parceiros comerciais, a fim de se concluir, se possível, se o país está posicionado em determinada relação mais como um país exportador de capital (país de origem) ou como importador de capital (país de destino).

[29] Gráfico extraído do site da Organização Mundial do Comércio.
Disponível em https://www.wto.org/english/res_e/booksp_e/wtr13-2b_e.pdf . Acesso em 12 de julho de 2019.

3. Comparação entre as convenções modelos da ONU e da OCDE e as convenções brasileiras[30]

3.1.Pessoas visadas

CM ONU/2017	CM OCDE/2017
ARTIGO 1 Pessoas visadas 1. A presente Convenção é aplicável às pessoas residentes de um ou de ambos os Estados contratantes. 2. Para efeitos da presente Convenção, os rendimentos recebidos através de uma entidade ou um arranjo de empresas que é tratado como totalmente ou em parte fiscalmente transparente ao abrigo do direito tributário de um dos Estados Contratantes são considerados rendimentos de um residente de um Estado Contratante, mas apenas na medida em que o rendimento é tratado, para efeitos de tributação por esse Estado, como o rendimento de um residente desse Estado. 3. A presente Convenção não afeta a tributação, por um Estado Contratante, de seus residentes, exceto no que respeita aos benefícios concedidos ao abrigo do parágrafo 3 do Artigo 7, parágrafo 2 do Artigo 9 e dos Artigos 19, 20, 23 [A] [B], 24, 25 e 28.	ARTIGO 1 Pessoas visadas 1. A presente Convenção é aplicável às pessoas residentes de um ou de ambos os Estados contratantes. 2. Para efeitos da presente Convenção, os rendimentos recebidos através de uma entidade ou um arranjo de empresas que é tratado como totalmente ou em parte fiscalmente transparente ao abrigo do direito tributário de um dos Estados Contratantes são considerados rendimentos de um residente de um Estado Contratante, mas apenas na medida em que o rendimento é tratado, para efeitos de tributação por esse Estado, como o rendimento de um residente desse Estado. 3. A presente Convenção não afeta a tributação, por um Estado Contratante, de seus residentes, exceto no que respeita aos benefícios concedidos ao abrigo do parágrafo 3 do Artigo 7, parágrafo 2 do Artigo 9 e dos Artigos 19, 20, 23 [A] [B], 24, 25 e 28.

A fixação da residência como critério de limitação para aplicação das convenções existe desde os primeiros modelos elaborados pela ONU (1980) e OCDE (1963). Esta condição é aplicada pelo Brasil em todas as convenções de dupla tributação em vigor. Em regra, a nacionalidade não é elemento a ser considerado no que diz respeito a aplicação pessoal das convenções sobre dupla tributação.

Oportuno registrar que, em decorrência dos esforços da comunidade internacional no combate à evasão fiscal, ao planejamento fiscal abusivo e a transparência fiscal, no ano de 2017 tanto a ONU quanto a OCDE decidiram alterar os respectivos modelos de convenções para incluir os itens 2 e 3 do Artigo 1, os quais possuem basicamente o mesmo conteúdo em ambos os modelos.

O item 2 dispõe que o rendimento de qualquer entidade ou arranjo de empresas que sejam, totalmente ou parcialmente, fiscalmente transparente, ou seja, mesmo que não possuam personalidade jurídica em determinado Estado, deve ser

[30] Serão destacados em cada subitem, à título ilustrativo, trechos das convenções modelos da ONU e da OCDE de 2017, porém a comparação com as convenções brasileiras abrangerá também as convenções modelos da ONU de 1980, 1997, 2001, assim como as convenções modelos da OCDE de 1963, 1977, 1992, 1998, 2000, 2003, 2005, 2008, 2010, 2014. Os textos das convenções em português são uma tradução livre feita pelo Autor, com base na versão inglês dos documentos.

considerado como rendimento de um residente de um Estado contratante, na medida que este Estado tribute tal rendimento como se de um residente fosse.[31]

O Item 3 apenas esclareceu que um Estado contratante tem ampla e total liberdade de tributar seus residentes, respeitadas as regras previstas nas convenções de que é signatário.

Como as convenções de que o Brasil é signatário são datadas de antes de 2017, as convenções brasileiras não possuem os itens 2 e 3. Contudo, com a pretensão do país de vir a ingressar o quadro de Estados-membros da OCDE, provável que as futuras convenções prevejam tais disposições, ou até mesmo as convenções já assinadas sejam alteradas para se atualizar a hodierna posição dos organismos internacionais. Ressalta-se, todavia, que a inserção destes itens nas convenções brasileiras não irá alterar em nada a tributação no país, tendo em vista que não existe na legislação fiscal interna a figura de entidade ou empresa fiscalmente transparente[32].

3.2.Impostos abrangidos

CM ONU/2017	CM OCDE/2017
ARTIGO 2 Impostos visados 1. A presente Convenção se aplica a impostos sobre a renda e sobre o capital exigidos por um dos Estados Contratantes ou das suas subdivisões políticas ou autoridades locais, independentemente da forma como são cobrados. 2. São considerados impostos sobre a renda e sobre o capital todos os impostos incidentes sobre a totalidade da renda ou do capital, ou sobre os elementos da renda ou de capital, incluindo os impostos sobre os ganhos provenientes da alienação de bens móveis ou imóveis, os impostos sobre a totalidade dos salários ou ordenados pagos pelas empresas, bem como os impostos sobre a valorização do capital.	ARTIGO 2 Impostos visados 1. A presente Convenção se aplica a impostos sobre a renda e sobre o capital exigidos por um dos Estados Contratantes ou das suas subdivisões políticas ou autoridades locais, independentemente da forma como são cobrados. 2. São considerados impostos sobre a renda e sobre o capital todos os impostos incidentes sobre a totalidade da renda ou do capital, ou sobre os elementos da renda ou de capital, incluindo os impostos sobre os ganhos provenientes da alienação de bens móveis ou imóveis, os impostos sobre a totalidade dos salários ou ordenados pagos pelas empresas, bem como os impostos sobre a valorização do capital.

[31] Segundo Maria Margarida Cordeiro Mesquita, a questão da definição do conceito de residente de acordo com a lei interna dos Estados contratantes poderia conduzir a um tratamento discriminatório de algumas formas jurídicas de atividades empresariais sem personalidade jurídica, razão pela qual os modelos de convenções vieram a ser atualizados para eliminar este tratamento discriminatório (MESQUITA, Maria Margarida Cordeiro. *As Convenções sobre Dupla Tributação*, Centro de Estudos Fiscais, Lisboa, 1998).

[32] O regime da transparência fiscal consagra que o rendimento tributável de determinadas sociedades será imputado diretamente aos sócios, nos termos da legislação interna de cada Estado. Logo, quando as pessoas indicadas na legislação interna reúnam determinados requisitos, o rendimento tributável é englobado ao restante do rendimento dos sócios e, então, será tributado. Por outras palavras, a sociedade é desconsiderada como sujeito autônomo para efeitos da tributação do rendimento, do que resulta que todas as atividades produtivas de rendimento desenvolvidas pela sociedade transparente serão consideradas como se tivessem sido praticadas diretamente pelos seus sócios. Sobre o tema, Brás Carlos ensina que "é da essência da transparência fiscal, que a sociedade funcione, no final do exercício, como um mero ente imputador de resultados. Esta é a verdadeira natureza das sociedades sujeitas ao regime de transparência." (BRÁS, Carlos. *Sociedades de Profissionais: Nota sobre a Circular 8/90 da DGCI*, Fisco nº 19, de Abril de 1990, p. 9).

3. Os impostos atuais a que a Convenção se aplica são, em particular: a) (no Estado A):..... b) (no Estado B):..... 4. A Convenção aplica-se igualmente a quaisquer impostos idênticos ou substancialmente similares aos impostos que são exigidos após a data de assinatura da Convenção, além de, ou em lugar de, os impostos existentes. As autoridades competentes dos Estados Contratantes devem notificar quaisquer mudanças significativas que tenham sido feitas em suas leis de tributação.	3. Os impostos atuais a que a Convenção se aplica são, em particular: a) (no Estado A):..... b) (no Estado B):..... 4. A Convenção aplica-se igualmente a quaisquer impostos idênticos ou substancialmente similares aos impostos que são exigidos após a data de assinatura da Convenção, além de, ou em lugar de, os impostos existentes. As autoridades competentes dos Estados Contratantes devem notificar quaisquer mudanças significativas que tenham sido feitas em suas leis de tributação.

As convenções modelos, tanto da OCDE quanto da ONU, aplicam-se a todos os impostos sobre o rendimento e sobre o capital, independentemente de sua designação ou método de lançamento, cobrança ou liquidação. Esse escopo está presente desde o primeiro modelo das convenções divulgadas em 1963 e 1980, respectivamente.

Oportuno registrar que, como as convenções são normas jurídicas que objetivam se harmonizar com o sistema tributário interno de cada Estado signatário, em regra, não tratarão de métodos de lançamento, cobrança ou liquidação de impostos, quiçá da definição do próprio termo "imposto", vez que esta tarefa está diretamente relacionado a soberania de cada Estado.

Dado que as convenções se aplicam a todo e qualquer imposto sobre rendimento e capital, considera-se que estão abrangidos todos os impostos sobre o rendimento global ou sobre partes do rendimento ou do capital, sobre os ganhos derivados da alienação de bens, sobre os salários, sobre as mais-valias e, igualmente, aos seus adicionais e prestações acessórias, como os juros, como exemplificado no item 2 do Artigo 2 das convenções modelos.

No Brasil, os ganhos sobre o capital são tratados como outro rendimento qualquer pela legislação do imposto de renda. Por esse motivo, ao analisar as convenções assinadas pelo país, nota-se que não há grande preocupação em mencionar no Artigo 2[33] que as respectivas convenções se aplicam a renda ou rendimento e, também, sobre o capital, limitando-se na maioria da vezes a mencionar que a convenção se aplicação " aos impostos sobre a renda" ou, quando diretamente mencionado um imposto, faz referência ao "imposto federal de renda". Essa informação, inclusive, pode ser encontrada nas reservas que o país fez ao parágrafo 1 do Artigo 2 na convenção modelo da OCDE e observada nas convenções celebradas com África do Sul, Áustria, Bélgica, Canadá, Chile, China, Coreia do Sul, Dinamarca, Equador, Eslováquia, República Tcheca, Espanha, Filipinas, Finlândia, França, Hungria, Índia, Israel, Itália, Japão, Luxemburgo, México,

[33] No caso da convenção Brasil-Japão, os impostos abrangidos estão discriminados no Artigo 1.

Noruega, Países Baixos, Peru, Portugal, Rússia, Suécia, Trinidad e Tobago, Turquia, Ucrânia, Venezuela.

A única exceção, se assim pode ser considerado, é a convenção assinada com a Argentina, na qual está previsto no item 1 do Artigo 2 que o acordo "se aplica a impostos sobre a renda e sobre o capital". Todavia, ao indicar no item 2 os impostos a que se refere, o Brasil menciona tão-somente "o imposto federal sobre a renda".

Outrossim, importante notar o item 4 do Artigo 2 das convenções modelos, incluído em todas as convenções de que o Brasil é signatário, que alarga o âmbito de aplicação do Artigo 2 a todos os impostos idênticos ou análogos que sejam criados ou exigidos após a data de assinatura da convenção e que venham a substituir os já existentes quando da assinatura dos acordos.[34]

Analisando-se o item 1 e 4 das convenções modelos ONU e OCDE, em conjunto com os comentários ao Artigo 2 existentes na convenção modelo OCDE/2017, verifica-se que o termo "impostos" utilizado pelo Brasil nas convenções de que é signatário não foi adequadamente traduzido quando colocado no contexto da legislação interna do país.

Isto, pois, na legislação interna do Brasil o termo "imposto" é utilizado como um tipo de "tributo", sendo que, sem adentrar em maiores detalhes, "tributo" é toda prestação pecuniária compulsória exigida pelo Estado brasileiro.[35]

Todavia, no contexto da legislação tributária internacional, já considerando as convenções modelos ONU/1980 e OCDE/1963, facilmente se constata que o termo "*taxes*", a que se refere as CDT's, está relacionado ao poder dos Estados em impor aos contribuintes a ele vinculados o pagamento de determinada prestação pecuniária, ou seja, o termo "*taxes*" utilizado nas CDT's deveria ser traduzido pelo Brasil como "tributo" e não "imposto", de acordo com sua legislação interna.

Essa sutil distinção de tradução traz enormes implicações pragmáticas na aplicação das convenções de que o Brasil é signatário, vez que no país há tributos (como

---

[34] Segundo as lições de Philip Baker, o parágrafo 4 do Artigo 2 é importante para evitar a constante necessidade de se emendar os acordos de dupla tributação. Contudo, importante frisar que esta regra não se aplicará apenas a tributos já existentes no momento da assinatura da convenção, mas, somente, aos tributos criados após a assinatura do acordo. (BAKER, Philip. *Double Taxation Conventions and International Law*, Sweet & Maxwell, 1994).

[35] A definição de "tributo" e os tipos de tributo existentes no ordenamento jurídico brasileiro podem ser encontradas nos artigos 3º e 5º do Código Tributário Nacional, aprovado pela Lei nº 5.172, de 25 de outubro de 1966: "*Art. 3º Tributo é toda prestação pecuniária compulsória, em moeda ou cujo valor nela se possa exprimir, que não constitua sanção de ato ilícito, instituída em lei e cobrada mediante atividade administrativa plenamente vinculada. (...) Art. 5º Os tributos são impostos, taxas e contribuições de melhoria*."

as contribuições, por exemplo) que ostentam nitidamente as mesmas características de "*taxes*", para fins de aplicação das convenções de dupla tributação. E, uma vez que o termo "*taxes*" é indevidamente traduzido para "imposto", as Autoridades Tributárias[36] brasileiras aplicam de forma equivocada o conteúdo das convenções de que o país é signatário, pois limitam seu âmbito de aplicação somente ao imposto de renda, quando, na realidade, deveria ser aplicada também à diversos outros tributos, como, por exemplo, a contribuição social sobre o lucro líquido (CSLL), que tem praticamente o mesmo objeto de tributação do imposto sobre a renda.

Esse erro de tradução, seja ele involuntário ou proposital, pode ser invocado pelos Estados contratantes que possuem convenção em vigor com o Brasil a denunciar o acordo, podendo ocorrer, em casos extremos, o encerramento da relação jurídica entre os países. Por exemplo, isto ocorreu com a Alemanha que, no ano de 2005, denunciou o acordo que possuía com o Brasil indicando exatamente que o Estado brasileiro se negava a cumprir com o disposto no Artigo 2 da convenção firmada entre os países, tendo em vista que diversos "*taxes*" ("tributos", em nossa particular tradução) idênticos ou substancialmente similares ao "imposto federal sobre a renda" eram cobrados pelo Brasil em desrespeito ao tratado.

3.3.Definições gerais

CM ONU/2017	CM OCDE/2017
ARTIGO 3 Definições gerais 1. Para os efeitos da presente Convenção, a menos que o contexto o exija de outra forma: a) o termo "pessoa" inclui um indivíduo, uma empresa e qualquer outro órgão/conjunto de pessoas; b) o termo "sociedade" significa qualquer organismo corporativo ou qualquer entidade que é tratada como um órgão corporativo para fins tributários; c) os termos "empresa de um Estado Contratante" e "empresa do outro Estado Contratante" significa, respetivamente, uma empresa detida por um residente de um Estado Contratante e uma empresa detida por um residente do outro Estado Contratante; d) o termo "tráfego internacional" significa qualquer transporte por navio ou aeronave, exceto quando o navio ou a aeronave é operado unicamente entre lugares em um Estado Contratante e a empresa que opera o navio ou a aeronave não é uma empresa desse Estado;	ARTIGO 3 Definições gerais 1. Para efeitos da presente Convenção, a menos que o contexto o exija de outra forma: a) o termo "pessoa" inclui um indivíduo, uma empresa e qualquer outro órgão/conjunto de pessoas; b) o termo "sociedade" significa qualquer organismo corporativo ou qualquer entidade que é tratada como um órgão corporativo para fins tributários; c) o termo "empresa" aplica-se à realização de qualquer tipo de negócio; d) os termos "empresa de um Estado Contratante" e "empresa do outro Estado Contratante" significa, respetivamente, uma empresa detida por um residente de um Estado Contratante e uma empresa detida por um residente do outro Estado Contratante;

[36] No caso, a Secretaria da Receita Federal do Brasil é responsável por administrar os tributos federais.

e) o termo "autoridade competente" significa:
(i) (no Estado A):.....
(ii) (no Estado B):.....
f) O termo “nacional” significa:
(i) qualquer indivíduo que possua a nacionalidade desse Estado Contratante;
(ii) qualquer pessoa, sociedade ou associação que derive o seu status das leis vigentes nesse Estado Contratante.
2. No que respeita à aplicação da Convenção a qualquer momento por um Estado Contratante, qualquer termo nela não definido, a menos que o contexto exija o contrário, têm o significado que tem no momento nos termos da lei desse Estado para os efeitos dos impostos a que a Convenção se aplica, qualquer significado no âmbito de aplicação da legislação tributária aplicável desse Estado prevalece sobre um significado dado ao termo por outras leis desse Estado.

e) o termo "tráfego internacional" significa qualquer transporte por navio ou aeronave, exceto quando o navio ou a aeronave é operado unicamente entre lugares em um Estado Contratante e a empresa que opera o navio ou a aeronave não é uma empresa desse Estado;
f) o termo "autoridade competente" significa:
(i) (no Estado A):.....
(ii) (no Estado B):.....
g) o termo "nacional", em relação a um Estado Contratante, significa:
i) qualquer indivíduo que possua a nacionalidade ou a cidadania desse Estado Contratante; e
(ii) qualquer pessoa, sociedade ou associação que derive o seu status das leis vigentes nesse Estado Contratante;
h) o termo "negócio" inclui o desempenho de serviços profissionais e de outras atividades de caráter independente.
i) o termo "fundo de pensão reconhecido" de um Estado significa uma entidade ou um arranjo de entidades estabelecido nesse Estado que é tratado como uma pessoa distinta ao abrigo das leis tributárias desse Estado e:
i) é estabelecida e operada exclusivamente ou quase exclusivamente para administrar ou fornecer benefícios de aposentadoria e auxiliares ou benefícios incidentais para os indivíduos e que é regulado como tal por esse Estado ou uma das suas subdivisões políticas ou autoridades locais; ou
(ii) que é estabelecido e operado exclusivamente ou quase exclusivamente para investir fundos para benefício de entidades ou arranjo de entidades referidos na subdivisão (i).
2. No que respeita à aplicação da Convenção a qualquer momento por um Estado Contratante, qualquer termo não definido nela, a menos que o contexto exija o contrário ou as autoridades competentes concordem com um significado diferente nos termos das provisões do Artigo 25, têm o significado que tem no momento nos termos da lei desse Estado para os efeitos dos impostos a que a Convenção se aplica, qualquer significado no âmbito de aplicação da legislação tributária aplicável desse Estado prevalece sobre um significado dado ao termo por outras leis desse Estado.

O Artigo 3 das convenções modelos da ONU e OCDE contempla um conjunto de definições necessárias à interpretação de várias de suas disposições, porém este artigo não esgota todos os termos contidos nos acordos. Isso ocorre, por exemplo, em definições de termos previstas em outros artigos, como a definição de “juros”, “royalties”, “dividendos”, “estabelecimento estável”, entre outros.

Nota-se, também, que as definições das convenções modelos da ONU e OCDE são muito similares, para não dizer coincidentes em alguns casos, sendo que no modelo da OCDE, com as respectivas atualizações que ocorreram desde 1963, houve a preocupação de se incluir mais definições, que este organismo internacional entende necessárias para adequada interpretação das CDT’s, como o significado de “empresa”, “negócio” ou “fundo de pensão reconhecido”.

A principal diferença entre os modelos da ONU e OCDE encontra-se na definição do termo “nacional”. Enquanto a ONU se preocupa em definir o termo como uma pessoa que tem a *nacionalidade* de um Estado contratante, a OCDE, a partir de 2000, alargou a definição de “nacional” para as pessoas que possuem a *nacionalidade* ou

cidadania de um Estado contratante. Essa sutil diferença pode ser importante para concluir, do ponto de vista da legislação interna de um Estado contratante, se uma pessoa deve ser considerada como contribuinte ou não sobre para fins de aplicação do acordo.

As convenções de que o Brasil é signatário possuem as mais diversas redações em seu Artigo 3[37], na maioria das vezes há a repetição dos termos inseridos na convenção modelo da ONU ou da OCDE, com pequenos acréscimos ou subtrações. Estas definições, todavia, são importantes para a adequada a aplicação da tributação em decorrência do acordo de que o país faz parte.[38]

Com relação a definição do termo "nacional", que a princípio se mostra de suma importância para fins de aplicação das CDT's, no Brasil a distinção entre pessoa com *nacionalidade* ou *cidadania* não interfere na relação jurídica tributária, vez que o artigo 12 da Constituição Federal de 1988 equipara os brasileiros *natos* e os *naturalizados*, vedando qualquer tipo de discriminação entre essas pessoas. Dessa forma, eventual segregação da definição do termo "nacional" nas CDT's firmadas pelo Brasil, entre *nacionalidade* e *cidadania*, não possui grande relevância para fins de aplicação dos acordos.[39]

No mais, destaca-se que o Brasil se reserva o direito de não incluir as definições de "negócios" e "empresas" no parágrafo 1 do Artigo 3, porque o país se reserva o direito de incluir um artigo referente a tributação de serviços pessoais independentes, conforme pode ser observado nas reservas inseridas na convenção modelo da OCDE.

---

[37] A definição dos termos na convenção Brasil-Japão se encontra no Artigo 2.

[38] Por exemplo, a definição de "pessoa estreitamente relacionada a uma empresa" encontra-se na convenção Brasil-Argentina, Artigo 2, item 1, alínea "k", e significa: "*uma pessoa que, com base nos fatos e circunstâncias relevantes, possui o controle sobre uma empresa ou esta última sobre a primeira, ou ambas estão sob o controle das mesmas pessoas ou empresas. Em qualquer caso, uma pessoa será considerada como estreitamente relacionada a uma empresa se uma possuir, direta ou indiretamente, mais de 50% de participação na outra (ou, no caso de uma sociedade, mais de 50% do total dos direitos de voto e do valor das ações da sociedade ou da participação nos lucros da sociedade), ou se outra pessoa possuir, direta ou indiretamente, mais de 50% de participação (ou, no caso de uma sociedade, mais de 50% do total dos direitos de voto e do valor das ações da sociedade ou da participação nos lucros da sociedade) na pessoa e na empresa*".

[39] Convenções de que o Brasil é signatário em que há a definição no respectivo Artigo 3 do termo "nacional" apenas com referência a *nacionalidade*: África do Sul, Argentina, Canadá, Chile, China, Coréia do Sul, Dinamarca, Equador, Eslováquia, República Tcheca, Finlândia, Hungria, Índia, Israel, Itália, Luxemburgo, México, Noruega, Países Baixos, Peru, Portugal, Trinidad e Tobago, Turquia, Ucrânia e Venezuela. Convenções de que o Brasil é signatário em que há a definição no respectivo Artigo 3 do termo "nacional" com referência a *nacionalidade* e *cidadania:* Filipinas e Rússia. Convenções de que o Brasil é signatário em que não há definição no respectivo Artigo 3 do termo "nacional": Áustria, Bélgica, Espanha, França, Suécia e Japão (Artigo 2).

3.4. Residência

CM ONU/2017	CM OCDE/2017
ARTIGO 4 Residente 1. Para efeitos da presente Convenção, o termo "residente de um Estado Contratante" significa qualquer pessoa que, nos termos da legislação desse Estado, seja sujeita a imposto por razão de seu domicílio, residência, local de incorporação, local de direção ou qualquer outro critério de mesma natureza, e também inclui esse Estado e qualquer subdivisão política ou autoridade local. Este termo, entretanto, não inclui qualquer pessoa que seja responsável por tributar nesse Estado em relação apenas ao rendimento de fontes desse Estado ou capital nele situados. 2. Sempre que, em virtude das provisões do parágrafo 1, um indivíduo seja residente de ambos os Estados Contratantes, o seu status deve ser determinado do seguinte modo: (a) deve ser considerado residente apenas do Estado em que tem uma habitação permanente disponível para ele; se ele tem uma habitação permanente disponível para ele em ambos os Estados, considera-se residente apenas do Estado com o qual suas relações pessoais e econômicas estão mais próximas (centro de interesses vitais); (b) se o Estado em que tem o seu centro de interesses vitais não puder ser determinado, ou se ele não tem uma habitação permanente disponível para ele em qualquer Estado, ele será considerado residente apenas do Estado em que tem domicílio habitual; (c) se tiver domicílio habitual nos dois Estados ou em nenhum deles, será considerado residente apenas do Estado de que é nacional; (d) se for nacional de ambos os Estados ou de nenhum deles, as autoridades competentes dos Estados Contratantes estabelecerão a questão de comum acordo. 3. Quando, em virtude das provisões do parágrafo 1, uma pessoa que não seja um indivíduo é residente de ambos os Estados Contratantes, as autoridades competentes dos Estados Contratantes esforçar-se-ão para estabelecer por mútuo acordo a que Estado essa pessoa é considerada residente para efeitos da Convenção, tendo em conta o seu lugar de gestão efetiva de negócios, o local onde foi criada ou se encontra constituída e quaisquer outros fatores relevantes. Na ausência de tal acordo, essa pessoa não terá direito a qualquer alívio ou isenção de impostos previstos na presente Convenção, exceto na medida e de tal forma que possa ser acordado pelas autoridades competentes dos Estados Contratantes.	ARTIGO 4 Residente 1. Para efeitos da presente Convenção, o termo "residente de um Estado Contratante" significa qualquer pessoa que, nos termos da legislação desse Estado, seja sujeita a imposto por razão de seu domicílio, residência, local de direção ou qualquer outro critério de mesma natureza, e também inclui esse Estado e qualquer subdivisão política ou autoridade local, bem como um fundo de pensões reconhecido desse Estado. Este termo, entretanto, não inclui qualquer pessoa que seja responsável por tributar nesse Estado em relação apenas ao rendimento de fontes desse Estado ou capital nele situados. 2. Sempre que, em virtude das provisões do parágrafo 1, um indivíduo seja residente de ambos os Estados Contratantes, o seu status deve ser determinado do seguinte modo: a) deve ser considerado residente apenas do Estado em que tem uma habitação permanente disponível para ele; se ele tem uma habitação permanente disponível para ele em ambos os Estados, considera-se residente apenas do Estado com o qual suas relações pessoais e econômicas estão mais próximas (centro de interesses vitais); b) se o Estado em que tem o seu centro de interesses vitais não puder ser determinado, ou se ele não tem uma habitação permanente disponível para ele em qualquer Estado, ele será considerado residente apenas do Estado em que tem domicílio habitual; c) se tiver domicílio habitual nos dois Estados ou em nenhum deles, será considerado residente apenas do Estado de que é nacional; d) se for nacional de ambos os Estados ou de nenhum deles, as autoridades competentes dos Estados Contratantes estabelecerão a questão de comum acordo. 3. Quando, em virtude das provisões do parágrafo 1, uma pessoa que não seja um indivíduo é residente de ambos os Estados Contratantes, as autoridades competentes dos Estados Contratantes esforçar-se-ão para estabelecer por mútuo acordo a que Estado essa pessoa é considerada residente para efeitos da Convenção, tendo em conta o seu lugar de gestão efetiva de negócios, o local onde foi criada ou se encontra constituída e quaisquer outros fatores relevantes. Na ausência de tal acordo, essa pessoa não terá direito a qualquer alívio ou isenção de impostos previstos na presente Convenção, exceto na medida e de tal forma que possa ser acordado pelas autoridades competentes dos Estados Contratantes.

Como tratado no Artigo 1, o critério subjetivo de aplicação das convenções é a residência, ou seja, este é o elemento de conexão por excelência e o primeiro requisito de acesso as convenções de dupla tributação. A identificação da qualidade de residente será fundamental para identificar os direitos e deveres de uma pessoa, seja de natureza física ou jurídica.[40]

O Artigo 4, por sua vez, sem trazer uma definição do termo “residência”, indica os critérios para se identificar uma determinada pessoa como residente de um dos

[40] COURINHA, Gustavo Lopes. *A Residência no Direito Internacional Fiscal*, Editora Almedina, 2015.

Estados contratantes. A correta identificação desses critérios será fundamental para resolver os casos de dupla tributação sob a luz das regras das convenções[41].

Em virtude dessa importância, o parágrafo 2 do artigo, seja no modelo da ONU quanto da OCDE, assim como nas convenções de que o Brasil é signatário, com exceção da convenção com o Japão, há uma sequência de requisitos a serem cumpridos para eliminar a questão da dupla residência das pessoas físicas.

Com relação as pessoas jurídicas, os parágrafos 1 e 3 estabelecem, em regra, que a residência será identificada pelo local de constituição (incorporação), sede de direção ou qualquer outro critério de natureza similar.

Oportuno destacar que o termo "local de constituição" (incorporação), em que pese constar menção nos comentários da convenção modelo OCDE/1963, por se tratar de *critério* de natureza similar a "sede de direção", só veio aparecer expressamente em um modelo de convenção no ano de 2001, quando atualizado o modelo da ONU. A OCDE fez constar expressamente esse termo em sua atualização de 2017, quando o inseriu em parte do parágrafo 3 do Artigo 4.

Pela legislação fiscal brasileira, a residência das pessoas naturais ou físicas, será o local de sua residência habitual ou seu centro de interesses vitais. Enquanto para as pessoas jurídicas, qualquer que seja a forma jurídica adotada para sua constituição, será o local de sua sede ou de cada um de seus estabelecimentos, o que a faz estar em harmonia com as disposições das convenções de que o país é Estado contratante[42].

3.5.Estabelecimento permanente

[41] Gustavo Lopes Courinha leciona sobre o Artigo 4º da CMOCDE, que "Como sua redacção deixa antever, porém, tal disposição vem estabelecer um limite convencional ao limite de residência, impedindo a relevância internacional de todos e quaisquer critérios de incidência subjetiva interna, designadamente obstando àqueles de cariz artificial; como bem relata Féliz Alberto Veja Borrego, '*Una interpretación sistemática del art. 4 del Modelo exige que cualquier outro critériotenga en consideración elementos fácticos que vinculen al sujeito com el território"*." (COURINHA, Gustavo Lopes. *A Residência no Direito Internacional Fiscal*, Editora Almedina, 2015, p. 68-(69).

[42] Código Tributário Nacional: "Art. 127. Na falta de eleição, pelo contribuinte ou responsável, de domicílio tributário, na forma da legislação aplicável, considera-se como tal: I - quanto às pessoas naturais, a sua residência habitual, ou, sendo esta incerta ou desconhecida, o centro habitual de sua atividade; II - quanto às pessoas jurídicas de direito privado ou às firmas individuais, o lugar da sua sede, ou, em relação aos atos ou fatos que derem origem à obrigação, o de cada estabelecimento; III - quanto às pessoas jurídicas de direito público, qualquer de suas repartições no território da entidade tributante. § 1º Quando não couber a aplicação das regras fixadas em qualquer dos incisos deste artigo, considerar-se-á como domicílio tributário do contribuinte ou responsável o lugar da situação dos bens ou da ocorrência dos atos ou fatos que deram origem à obrigação. § 2º A autoridade administrativa pode recusar o domicílio eleito, quando impossibilite ou dificulte a arrecadação ou a fiscalização do tributo, aplicando-se então a regra do parágrafo anterior."

CM ONU/2017	CM OCDE/2017
ARTIGO 5 Estabelecimento permanente 1. Para efeitos da presente Convenção, o termo "estabelecimento permanente" significa um local fixo de negócios através do qual o negócio de uma empresa é total ou parcialmente realizado. 2. O termo "estabelecimento permanente" inclui especialmente: a) um local de direção; b) uma filial; c) um escritório; d) uma fábrica; e) uma oficina, e f) uma mina, um poço de petróleo ou gás, uma pedreira ou qualquer outro local de extração de recursos. 3. O termo “estabelecimento permanente” também inclui: (a) Um canteiro de obras, um projeto de construção, montagem ou instalação ou atividades de supervisão relacionados a ele, mas apenas se esse canteiro, projeto ou atividades durarem mais de seis meses; (b) A prestação de serviços, incluindo consultoria, por uma empresa através de empregados ou outro tipo de pessoa contratada pela empresa para este fim, mas apenas se as atividades dessa natureza continuarem no Estado contratante por um período ou períodos agregados superiores a 183 dias em qualquer período de 12 meses que comece ou termine no ano fiscal em questão. 4. Não obstante as disposições precedentes do presente Artigo, o termo "estabelecimento permanente" deve ser considerado para não incluir: a) a utilização de instalações unicamente para efeitos de armazenagem, exibição ou entrega de bens ou mercadoria pertencente à empresa; b) a manutenção de um estoque de bens ou mercadorias pertencentes à empresa exclusivamente para fins de armazenamento, exibição ou entrega; c) a manutenção de um estoque de bens ou mercadorias pertencentes à empresa unicamente para efeitos de transformação por outra empresa; d) a manutenção de um local fixo de negócios unicamente para efeitos de compra de bens ou mercadorias ou de recolha de informações, para a empresa; e) a manutenção de um local de trabalho fixo unicamente para efeitos de desenvolver, para a empresa, qualquer outra atividade de caráter preparatório e auxiliar; f) a manutenção de um local fixo de negócios unicamente para qualquer combinação de atividades referidas nas alíneas a) a e), desde que tal atividade ou, no caso da alínea f), a atividade global do local fixo de negócios, é de caráter preparatório ou auxiliar. 4.1 O parágrafo 4 não é aplicável a um local fixo de atividade que seja utilizado ou mantido por uma empresa se a mesma empresa ou uma empresa associada exerce atividades comerciais no mesmo local ou noutro local do mesmo Estado Contratante e a) esse lugar ou outro lugar constitua um estabelecimento permanente para a empresa ou a empresa associada ao abrigo das provisões no presente Artigo, ou b) a atividade global resultante da combinação das atividades desenvolvidas pelas duas empresas no mesmo lugar, ou pela mesma empresa ou empresas associadas nos dois lugares, não é de caráter preparatório ou auxiliar, desde que as atividades empresariais desenvolvidas pelas duas empresas no mesmo lugar, ou pela mesma empresa ou empresa associada nos dois lugares, constituem funções complementares que fazem parte de uma operação empresarial coesa. 5. Não obstante as provisões dos parágrafos 1 e 2, mas reservado as provisões do parágrafo 7, caso uma pessoa atue num Estado Contratante em nome de uma empresa, essa empresa deve ser considerada como tendo um estabelecimento permanente nesse Estado em respeito a qualquer atividade que essa pessoa empreenda para a empresa, se tal pessoa:	ARTIGO 5 Estabelecimento permanente 1. Para efeitos da presente Convenção, o termo "estabelecimento permanente" significa um local fixo de negócios através do qual o negócio de uma empresa é total ou parcialmente realizado. 2. O termo "estabelecimento permanente" inclui especialmente: a) um local de direção; b) uma filial; c) um escritório; d) uma fábrica; e) uma oficina, e f) uma mina, um poço de petróleo ou gás, uma pedreira ou qualquer outro local de extração de recursos. 3. Um canteiro de obras ou projeto de construção ou de instalação constitui um estabelecimento permanente apenas se durar mais de doze meses. 4. Não obstante as disposições precedentes do presente Artigo, o termo "estabelecimento permanente" deve ser considerado para não incluir: a) a utilização de instalações unicamente para efeitos de armazenagem, exibição ou entrega de bens ou mercadoria pertencente à empresa; b) a manutenção de um estoque de bens ou mercadorias pertencentes à empresa exclusivamente para fins de armazenamento, exibição ou entrega; c) a manutenção de um estoque de bens ou mercadorias pertencentes à empresa unicamente para efeitos de transformação por outra empresa; d) a manutenção de um local fixo de negócios unicamente para efeitos de compra de bens ou mercadorias ou de recolha de informações, para a empresa; e) a manutenção de um local de trabalho fixo unicamente para efeitos de desenvolver, para a empresa, qualquer outra atividade de caráter preparatório e auxiliar; f) a manutenção de um local fixo de negócios unicamente para qualquer combinação de atividades referidas nas alíneas a) a e), desde que tal atividade ou, no caso da alínea f), a atividade global do local fixo de negócios, é de caráter preparatório ou auxiliar. 4.1 O parágrafo 4 não é aplicável a um local fixo de atividade que seja utilizado ou mantido por uma empresa se a mesma empresa ou uma empresa associada exerce atividades comerciais no mesmo local ou noutro local do mesmo Estado Contratante e a) esse lugar ou outro lugar constitua um estabelecimento permanente para a empresa ou a empresa associada ao abrigo das provisões no presente Artigo, ou b) a atividade global resultante da combinação das atividades desenvolvidas pelas duas empresas no mesmo lugar, ou pela mesma empresa ou empresas associadas nos dois lugares, não é de caráter preparatório ou auxiliar, desde que as atividades empresariais desenvolvidas pelas duas empresas no mesmo lugar, ou pela mesma empresa ou empresa associada nos dois lugares, constituem funções complementares que fazem parte de uma operação empresarial coesa. 5. Não obstante as provisões dos parágrafos 1 e 2, mas reservado as provisões do parágrafo 6, caso uma pessoa atue num Estado Contratante em nome de uma empresa e, ao fazê-lo, habitualmente conclui contratos, ou habitualmente desempenha o principal papel que conduz à celebração de contratos que são regularmente celebrados sem modificação pela empresa, e estes contratos são a) em nome da empresa, ou b) para a transferência da titularidade ou para a concessão do direito de utilização, bem de propriedade da empresa ou que a empresa tem o direito de usar, ou

a) habitualmente celebre contratos, ou habitualmente desempenha papel principal que conduz à celebração de contratos que são regularmente celebrados sem modificação pela empresa, e estes contratos são (i) em nome da empresa, ou (ii) para a transferência da titularidade ou para a concessão do direito de utilização, bem de propriedade da empresa ou que a empresa tem o direito de usar, ou (iii) para a prestação de serviços por essa empresa, que a empresa deve ser considerada como tendo um estabelecimento permanente nesse Estado em respeito a qualquer atividade que essa pessoa empreenda para a empresa, a menos que as atividades desta pessoa são limitadas às mencionadas no parágrafo 4, se exercido através de um local fixo de negócios (que não seja um local fixo de negócios que o parágrafo 4.1 se aplicaria), não tornaria este lugar fixo de negócios um estabelecimento permanente nos termos das provisões deste parágrafo; ou

b) a pessoa não celebra habitualmente contratos ou não possui o papel principal para a celebração de tais contratos, mas habitualmente mantém naquele Estado um armazém de bens e mercadorias de onde aquela pessoa regularmente entrega bens e mercadorias em nome da empresa.

6. Não obstante as provisões anteriores deste Artigo, mas sujeito as provisões do parágrafo 7, uma empresa de seguros de um Estado Contratante de, exceto no que se relaciona a resseguro, ser considerada como tendo um estabelecimento permanente naquele outro Estado Contratante se ela coletar prêmios no território daquele outro Estado ou assegurar riscos situados através de uma pessoa.

7. Os parágrafos 5 e 6 não são aplicáveis quando a pessoa que atua num Estado Contratante em nome de uma empresa do outro Estado Contratante exerce as suas atividades no primeiro Estado como um agente independente e atua para a empresa no curso ordinário desse negócio. Quando, entretanto, uma pessoa atua exclusivamente ou quase exclusivamente em nome de uma ou mais empresas a que está associada, essa pessoa não deve ser considerada um agente independente na acepção do presente parágrafo em relação a qualquer empresa.

8. O fato de uma sociedade residente de um Estado Contratante controlar ou ser controlada por uma sociedade residente do outro Estado Contratante, ou que exerce a sua atividade nesse outro Estado (quer através de um estabelecimento permanente ou o contrário), não constitui, por si só, para nenhuma das empresas um estabelecimento permanente da outra.

9. Para efeitos do presente artigo, uma pessoa ou empresa associada a uma empresa se, com base em todos os fatos e circunstâncias relevantes, um tiver controle dos outros ou ambos estão sob o controle das mesmas pessoas ou empresas. Em qualquer caso, um pessoa ou empresa deve ser considerada associada a uma empresa se houver, direta ou indiretamente, mais de 50 por cento de interesse benéfico na outra (ou, no caso de uma empresa, mais de 50 por cento da votação agregada e valor das ações da empresa ou de participação de interesse benéfico do patrimônio líquido da empresa) ou se outra pessoa ou empresa possui, direta ou indiretamente, mais de 50 por cento de interesse benéfico (ou, no caso de uma empresa, mais de 50 por cento do agregado e o valor das ações da empresa ou do interesse benéfico do patrimônio líquido em empresa) na pessoa e na empresa ou nas duas empresas.

c) para a prestação de serviços por essa empresa, que a empresa deve ser considerada como tendo um estabelecimento permanente nesse Estado em respeito a qualquer atividade que essa pessoa empreenda para a empresa, a menos que as atividades desta pessoa são limitadas às mencionadas no parágrafo 4, se exercido através de um local fixo de negócios (que não seja um local fixo de negócios que o parágrafo 4.1 se aplicaria), não tornaria este lugar fixo de negócios um estabelecimento permanente nos termos das provisões deste parágrafo.

6. O parágrafo 5 não é aplicável quando a pessoa que atua num Estado Contratante em nome de uma empresa do outro Estado Contratante exerce as suas atividades no primeiro Estado como um agente independente e atua para a empresa no curso ordinário desse negócio. Quando, entretanto, uma pessoa atua exclusivamente ou quase exclusivamente em nome de uma ou mais empresas a que está associada, essa pessoa não deve ser considerada um agente independente na acepção do presente parágrafo em relação a qualquer empresa.

7. O fato de uma sociedade residente de um Estado Contratante controlar ou ser controlada por uma sociedade residente do outro Estado Contratante, ou que exerce a sua atividade nesse outro Estado (quer através de um estabelecimento permanente ou o contrário), não constitui, por si só, para nenhuma das empresas um estabelecimento permanente da outra.

8. Para efeitos do presente artigo, uma pessoa ou empresa associada a uma empresa se, com base em todos os fatos e circunstâncias relevantes, um tiver controle dos outros ou ambos estão sob o controle das mesmas pessoas ou empresas. Em qualquer caso, um pessoa ou empresa deve ser considerada associada a uma empresa se houver, direta ou indiretamente, mais de 50 por cento de interesse benéfico na outra (ou, no caso de uma empresa, mais de 50 por cento da votação agregada e valor das ações da empresa ou de participação de interesse benéfico do patrimônio líquido da empresa) ou se outra pessoa ou empresa possui, direta ou indiretamente, mais de 50 por cento de interesse benéfico (ou, no caso de uma empresa, mais de 50 por cento do agregado e o valor das ações da empresa ou do interesse benéfico do patrimônio líquido em empresa) na pessoa e na empresa ou nas duas empresas.

O conceito de estabelecimento permanente[43] é essencial à tributação dos lucros das empresas, porém não diz respeito a tributação de rendimentos de natureza

[43] Sobre o tema, diz Heleno Taveira Torres: "Este conceito de estabelecimento permanente apresenta-se com duas funções muito claras. Ordinariamente, serve como um critério de conexão subjetivo, posto para vincular a pessoa jurídica não residente ao território do Estado de instalação, para efeitos tributários. É o que denominamos de *função positiva do estabelecimento permanente*. Mas também se presta como forma de limitação à competência do Estado de residência sobre os rendimentos obtidos por um residente no outro Estado mediante estabelecimento permanente; e, de modo converso, como um limite objetivo para o Estado da fonte, pela exigência de determinados pressupostos para a respectiva qualificação da presença do sujeito

diversa, tais como dividendos, juros, royalties e rendimentos de atividades de profissionais independentes.

Seja a nível da ONU ou da OCDE, principalmente após as atualizações das convenções modelos no ano de 2017, o conceito de estabelecimento permanente é objeto de reflexão, para que seja possível aos Estados signatários dos acordos de dupla tributação se adaptarem as novas formas de comércio internacional, principalmente relacionadas ao comércio eletrônico. Como essas atualizações ocorreram recentemente, as convenções de que o Brasil é signatário ainda possuem as definições trazidas pelas convenções modelo ONU/1980 e OCDE/1963, o que traz desafios ao país em interpretar e aplicar as regras de estabelecimento permanente no contexto atual do comércio internacional.

Os parágrafos 1 a 3 do Artigo 5 trazem, se assim for permitido dizer, o conceito *clássico* de estabelecimento permanente, qual seja, a definição de estabelecimento permanente em decorrência de um local fixo, que pressupõe um certo grau de permanência do contribuinte em determinado espaço geográfico, para o exercício de sua atividade, independente da forma jurídica adotada para seus negócios.

As atividades de caráter preparatório e auxiliar, de acordo com as convenções em vigor no Brasil, são definidas com base nas convenções modelos ONU/1980 e OCDE/1963, portanto, para fins de aplicação dos tratados não constituem um estabelecimento estável.

Sem a pretensão de se aprofundar nesta questão, com o avanço do comércio internacional em decorrência do comércio eletrônico, tanto a ONU quanto a OCDE estão revisando suas posições sobre a definição de atividades de caráter preparatório e auxiliar, tendo em vista que, quando da antiga definição formulada por esses órgãos, não existia a *internet* e nem se poderia prever os respectivos efeitos que ela teria nas relações comercias. Tanto é assim que as convenções modelos atualizadas no ano de 2017 já possuem parâmetros mais bem definidos para identificar um estabelecimento permanente, mesmo quando ele é utilizado única e exclusivamente para fins de desenvolver atividades auxiliares e preparatórios, como, por exemplo, definido no parágrafo 4.1.

---

não residente, de tal forma que, enquanto a presença da pessoa jurídica não residente não se configurar como tal, a competência tributária queda-se exclusivamente atribuída ao Estado de residência, excluída aquela do Estado da fonte, mediante isenção expressa, o que denominamos de *função negativa do estabelecimento permanente*." (TORRES, Heleno Taveira. *Interpretação das Convenções para evitar a Dupla Tributação e Prestações de Serviços*. In: Estudos em Homenagem ao Professor Doutor Alberto Xavier, Ed. Almedina, p. 602-603).

A legislação fiscal brasileira adota, em regra, o princípio da universalidade da tributação ou *world wide income taxation*, logo, a tributação do contribuinte residente no Brasil ocorrerá independentemente da localização, da condição jurídica ou nacionalidade da fonte e da origem dos rendimentos. Em decorrência de o sistema fiscal brasileiro estar estruturado com base nesse princípio, não há na legislação fiscal interna a definição de estabelecimento permanente para fins de tributação.

Por isso, considerando que os tratados e convenções internacionais revogam ou modificam a legislação fiscal brasileira, e serão observados pela que lhe sobrevenha,[44] de suma importância a observância das definições do Artigo 5 das convenções de que o Brasil é signatário, para a correta tributação dos lucros obtidos por estrangeiros no Brasil e por residentes no exterior.

Com relação ao parágrafo 3 do Artigo 5 da convenção modelo OCDE, o Brasil se reserva ao direito de considerar estabelecimento permanente qualquer canteiro de obras, projeto de construção ou de instalação, que durar mais de seis meses, e não doze meses com previsto no modelo.

3.6.Rendimentos de bens imóveis

CM ONU/2017	CM OCDE/2017
ARTIGO 6 Rendimentos de bens imóveis 1. Rendimentos recebidos um residente de um Estado Contratante de bens imóveis (incluindo rendimentos da agricultura ou da silvicultura) situados no outro Estado Contratante devem ser tributados nesse outro Estado. 2. O termo "bens imóveis" tem o significado que tem no âmbito da legislação do Estado Contratante em que o imóvel em questão está situado. O termo deve, em qualquer caso, incluir bens acessórios aos bens imóveis, pecuária e equipamentos utilizados na agricultura e na silvicultura, direitos aos quais as disposições gerais de direito respectivamente a propriedade imóvel se aplique, usufruto de bens imóveis e direitos de pagamentos fixos ou variáveis como contrapartida do trabalho, ou do direito ao trabalho, depósitos minerais, fontes e outros recursos naturais; navios e aeronaves não devem ser considerados imóveis. 3. As provisões do parágrafo 1 são aplicáveis aos rendimentos recebidos da utilização direta, utilização em qualquer outra forma de bens imóveis. 4. As disposições dos parágrafos 1 e 3 aplicam-se igualmente aos rendimentos de bens imóveis de uma empresa e ao rendimento de propriedade imóvel usada para o desenvolvimento de atividade independente de prestação de serviços.	ARTIGO 6 Rendimentos de bens imóveis 1. Rendimentos recebidos um residente de um Estado Contratante de bens imóveis (incluindo rendimentos da agricultura ou da silvicultura) situados no outro Estado Contratante devem ser tributados nesse outro Estado. 2. O termo "bens imóveis" tem o significado que tem no âmbito da legislação do Estado Contratante em que o imóvel em questão está situado. O termo deve, em qualquer caso, incluir bens acessórios aos bens imóveis, pecuária e equipamentos utilizados na agricultura e na silvicultura, direitos aos quais as disposições gerais de direito respectivamente a propriedade imóvel se aplique, usufruto de bens imóveis e direitos de pagamentos fixos ou variáveis como contrapartida do trabalho, ou do direito ao trabalho, depósitos minerais, fontes e outros recursos naturais; navios e aeronaves não devem ser considerados imóveis. 3. As provisões do parágrafo 1 são aplicáveis aos rendimentos recebidos da utilização direta, utilização em qualquer outra forma de bens imóveis. 4. As disposições dos parágrafos 1 e 3 aplicam-se igualmente aos rendimentos de bens imóveis de uma empresa.

[44] Código Tributário Nacional: "Art. 98. Os tratados e as convenções internacionais revogam ou modificam a legislação tributária interna, e serão observados pela que lhes sobrevenha."

A tributação de rendimentos de bens imóveis, prevista no Artigo 6 das convenções modelos, e replicado sem grandes divergências em todas as convenções brasileiras em vigor, permanece praticamente inalterada desde a convenção modelo OCDE/1963. Apenas em 1977 foi incluído pela OCDE no parágrafo 1 a frase "*incluindo rendimentos da agricultura ou da silvicultura*", para deixar expresso que o produto derivado destas atividades, que está intrinsecamente relacionado a propriedade imóvel, também deve ser tributado de acordo com a previsto do Artigo 6.[45]

Oportuno mencionar que o parágrafo 2 remete a definição de "bens imóveis" para a legislação interna do Estado contratante. Todavia, sobrepondo-se às legislações internas, as convenções definem que determinados direitos sobre bens imóveis e acessórios devem obrigatoriamente estar incluído no conceito para fins de aplicação dos tratados, assim como veda que aeronave e navios sejam tratados como bens imóveis. Neste segundo caso, aliás, as convenções possuem disposição específica, em regra, previstas no Artigo 8.

Por fim, o parágrafo 4 das convenções modelos dispõe que os rendimentos de bens imóveis de uma empresa estão sujeitos à tributação do Artigo 6, e não como lucro da sociedade (Artigo 7), ou seja, rendimentos de empresas derivados do uso, locação, arrendamento ou qualquer outra forma de exploração de bens imóveis, devem ser tributados nos termos desse artigo. Algumas convenções brasileiras, como é o caso dos acordos com Finlândia, Peru e Portugal, os Estados contratantes optaram por deixar claro esta opção ao inserir novo parágrafo ou subitem com a previsão.

3.7.Lucro das empresas

[45] Sobre a definição de "rendimento" de propriedade imobiliária do Artigo 6, Philip Baker leciona: "The Article does not define 'income' from immovable property, except to say that Article 6(1) applies to income derived from the direct use, letting, or use in any other form of immovable property. As an undefined term the meaning of 'income' is presumably referred (under Article 3(2)) to the domestic law meaning of the states concerned. The tax law of each Contracting State would therefore apply to define what receipts are to be regarded as income from immovable property: this way has important consequences where domestic legislation classifies certain gains from the disposal of land as income". (BAKER, Philip. *Double Taxation Conventions and International Tax Law*, Sweet & Maxwell, 1994, p. 171).

CM ONU/2017	CM OCDE/2017
ARTIGO 7 Lucros das empresas 1. Os lucros de uma empresa de um Estado Contratante devem ser tributados nesse Estado a menos que a empresa exerça negócios no outro Estado Contratante através de estabelecimento permanente nele situado. Se a empresa desenvolve negócios como referido, os lucros dessa empresa podem ser tributados no outro Estado, mas somente sobre o montante como imputável a (a) aquele estabelecimento permanente; (b) vendas no outro Estado de bens e mercadorias do mesmo ou similar tipo que aquelas vendidas por meio do estabelecimento permanente; ou (c) outros negócios desenvolvidos no outro Estado do mesmo tipo ou de tipo similar aqueles desenvolvidos por meio do estabelecimento permanente. 2. Sujeito as disposições do parágrafo 3, se uma empresa de um Estado contratante desenvolver negócios no outro Estado contratante por meio de um estabelecimento permanente lá situado, em cada Estado contratante serão atribuídos a esse estabelecimento permanente os lucros que se esperaria obter se fosse uma empresa distinta e separada envolvida na mesma atividade ou atividade similar, nas mesmas condições ou condições similares e tratando de forma totalmente independente com a empresa da qual é um estabelecimento permanente. 3. Na determinação dos lucros de um estabelecimento permanente, serão permitidas como deduções as despesas incorridas para o desenvolvimento dos negócios do estabelecimento permanente, incluindo despesas executivas e administrativas assim incorridas, seja no Estado em que estiver situado o estabelecimento permanente ou em outro lugar. Entretanto, não será permitida essa dedução em relação a valores, se houver, pagos (exceto para reembolso de despesas reais) pelo estabelecimento permanente para a sede da empresa ou qualquer de seus escritórios, a título de royalties, taxas ou outros pagamentos similares em retorno pelo uso de patentes ou direitos de uso, ou por meio de comissão, por serviços específicos desenvolvidos ou por gerenciamento, ou, exceto no caso de empresas bancárias, por meio de juros sobre empréstimos ao estabelecimento permanente. Da mesma forma, não serão levados em consideração, na determinação dos lucros de um estabelecimento permanente, os valores cobrados (exceto quanto ao reembolso de despesas reais) pelo estabelecimento permanente à sede da empresa ou qualquer de seus escritórios, por meio de royalties, taxas, ou outro pagamento similar em retorno pelo uso de patentes ou outros direitos de uso, ou como comissão por serviços específicos desenvolvidos ou por gerenciamento, ou, exceto no caso de uma empresa bancária, por meio de juros sobre dinheiro emprestado à sede da empresa ou qualquer de seus escritórios. 4. Na medida que seja habitual em um Estado contratante determinar os lucros a serem atribuídos a um estabelecimento permanente com base em uma repartição dos lucros totais da empresa para suas várias partes, nada no parágrafo 2 impedirá que esse Estado contratante determine os lucros a serem taxados por essa repartição como pode ser habitual; o método de repartição deve, contudo, ser tal que o resultado seja conforme aos princípios contidos nesse Artigo. 5. Para os fins dos parágrafos anteriores, os lucros a serem atribuídos ao estabelecimento permanente serão determinados pelo mesmo método ano a ano, a menos que exista boa e suficiente razão para o contrário. 6. Se os lucros incluírem itens de rendimentos que são tratados separadamente noutros Artigos da presente Convenção, as disposições dos referidos artigos não são afetadas pelo disposto no presente Artigo.	ARTIGO 7 Lucros das empresas 1. Os lucros de uma empresa de um Estado Contratante devem ser tributados nesse Estado a menos que a empresa exerça negócios no outro Estado Contratante através de estabelecimento permanente nele situado. Se a empresa desenvolve negócios como referido, os lucros imputáveis ao estabelecimento permanente em conformidade com a provisão do parágrafo 2 podem ser tributados nesse outro Estado. 2. Para efeitos do presente Artigo e do Artigo [23-A] [23 B], os lucros que são imputáveis em cada Estado Contratante ao estabelecimento permanente referido no parágrafo 1 são os lucros que se pode esperar fazer, nomeadamente nas suas relações com outras partes da empresa, se fosse uma empresa separada e independente engajada em atividades iguais ou similares nas mesmas condições ou similares, tendo em conta as funções executadas, os ativos utilizados e os riscos assumidos pela empresa através do estabelecimento permanente e através das outras partes da empresa. 3. Se, em conformidade com o parágrafo 2, um Estado Contratante ajustar os lucros que são atribuíveis a um estabelecimento permanente de uma empresa de um dos Estados Contratantes e impostos de acordo com os lucros da empresa que foram imputáveis ao imposto no outro Estado, o outro Estado deve, na medida do necessário para eliminar a dupla tributação sobre estes lucros, fazer um ajustamento adequado ao montante do imposto cobrado sobre esses lucros. Ao determinar tal ajustamento, as autoridades competentes dos Estados Contratantes devem, se necessário, consultar-se mutuamente. 4. Se os lucros incluírem itens de rendimentos que são tratados separadamente noutros Artigos da presente Convenção, as disposições dos referidos artigos não são afetadas pelo disposto no presente Artigo.

O Artigo 7, parágrafo 1, tanto do modelo de convenção da ONU quanto da OCDE, assim como todas as convenções de que o Brasil é signatário, consagra a

competência exclusiva do Estado da residência relativo à tributação dos lucros das empresas. Essa regra só deve ser excepcionada quando a empresa desenvolve sua atividade no outro Estado por meio de um estabelecimento permanente nele situado. Quando isto ocorrer, tanto o Estado da residência quanto o Estado da fonte, onde está situado o estabelecimento permanente, poderão exercer o direito de tributar, sem prejuízo de, posteriormente, o Estado da residência aplicar as regras para eliminação da dupla tributação previstas nas convenções.[46]

O parágrafo 2 estipula o princípio da concorrência plena[47], ou seja, a imputação dos lucros ao estabelecimento permanente deve ter lugar nos Estados contratantes como se se tratasse de uma empresa distinta e separada de sua sede.

Enquanto a convenção modelo da OCDE restringe a aplicação deste artigo aos lucros que o estabelecimento estável obtenha, a convenção modelo da ONU estabelece que o lucro imputável ao estabelecimento estável não é apenas o resultante de suas atividades, mas, também, todos os resultados de suas transações e atividades realizadas no Estado contratante, quando similares ou mesmo tipo de atividade por ele realizadas. Por exemplo: se uma empresa sediada no Estado contratante A possui um estabelecimento permanente no Estado contratante B, e nesse outro Estado desenvolve sua atividade por meio de seu estabelecimento estável e, também, diretamente por meio de sua sede no Estado A, pelo modelo de convenção da OCDE, apenas o lucro imputável ao estabelecimento estável deverá ser tributado pelo Estado B; já pelo modelo de convenção da ONU, todo o lucro obtido no Estado B, por se relacionar a mesma atividade do estabelecimento estável, poderá ser tributado pelo Estado B.

Não obstante o Brasil ser um país considerado em desenvolvimento, cujo o modelo de convenção da ONU lhe é mais favorável, adota-se em todas suas convenções o modelo OCDE, o que, de certa forma, retira o direito de tributar rendimentos gerados em seu território, cuja as atividades foram desenvolvidas por empresas sediadas no outro Estado contratante.

Ressalta-se, ainda, que tanto os parágrafos 2 e 3 da convenção modelo OCDE quanto os parágrafos 2 a 5 da convenção modelo ONU são importantes instrumentos no

[46] MESQUITA, Maria Margarida Cordeiro. *As Convenções Sobre Dupla Tributação*, Centro de Estudos Fiscais, Lisboa, 1998.
[47] Arm's length principle.

combate ao indevido uso de *transfer pricing*, atribuindo aos Estados contratantes os poderes necessários para ajustar os lucros a serem tributados em seus territórios.[48]

3.8.Transportes marítimo e aéreo

CM ONU/2017	CM OCDE/2017
ARTIGO 8 Transporte internacional de navio e aeronave Artigo 8 (alternativa A) 1. Os lucros de uma empresa de um Estado contratante da exploração de navios ou aeronaves no tráfego internacional devem ser tributados somente nesse Estado. 2. As disposições do parágrafo 1 é igualmente aplicável aos lucros da participação de uma associação de empresas, em negócios conjuntos ou uma agência operacional internacional. Artigo 8 (alternativa B) 1. Os lucros de uma empresa de um Estado contratante da exploração de aeronaves no tráfego internacional devem ser tributados somente nesse Estado. 2. Os lucros de uma empresa de um Estado contratante da exploração de navios no tráfego internacional devem ser tributados somente nesse Estado, exceto se as atividades de transporte que se originaram tal operação no outro Estado contratante são mais do que casual. Se tais atividades são mais do que casual, tais lucros podem ser tributados nesse outro Estado. Os lucros a serem tributados nesse outro Estado deve ser determinado com base em uma alocação apropriada sobre todos os lucros obtidos pela empresa relativo as operações de transporte. O imposto calculado de acordo com tal alocação deve, então, ser reduzido em __por cento. (O percentual é para ser estabelecido mediante negociação bilateral). 3. As provisões dos parágrafos 1 e 2 devem também ser aplicadas aos lucros da participação em associação de empresas, em negócios conjuntos ou uma agência operacional internacional.	ARTIGO 8 Transporte internacional de navio e aeronave 1. Os lucros de uma empresa de um Estado Contratante da exploração de navios ou aeronaves no tráfego internacional só podem ser tributados nesse Estado. 2. As disposições do parágrafo 1 é igualmente aplicável aos lucros da participação de uma associação de empresa, em negócios conjunto ou uma agência operacional internacional.

O Artigo 8 das convenções modelos[49] é incorporado, com as devidas adaptações, em todas as convenções que o Brasil é um dos Estados contratantes. Trata-se de uma regra especial e, portanto, excepciona a tributação prevista no Artigo 7.

[48] Gustavo Lopes Courinha leciona: "A adopção da regra de preços *at arm's length* para fixar os efeitos fiscais nas relações contratuais entre entidades relacionadas – actualmente presente na quase totalidade das Convenções Fiscais – pode, vantajosamente, ser utilizada para a determinação do beneficiário efectivo dos rendimentos pagos. Os normativos convencionais de repartição de lucros entre entendidas relacionadas e a condição de beneficiário efectivo prosseguem, com efeito, uma finalidade comum: confluem no sentido de evitar que as Convenções de Dupla Tributação sejam utilizadas para reduzir ou mesmo eliminar as matérias tributáveis num dado país de entidades que, em virtude das suas particularidades relações, são propensas à manipulação de preços nas transacções que praticam. O que o regime dos Preços de Transferência pretendeu assegurar foi que, para efeitos fiscais, as entidades interdependentes envolvidas fossem consideradas como diligentes zeladoras dos seus interesses, i.e., como actuando em termos egoísticos, segundo uma prática de preços de transacção não divergente daqueles que são os preços normais de mercado". (COURINHA, Gustavo Lopes. *A Residente no Direito Internacional Fiscal*, Ed. Almedina, 2015, p. 409-410).

[49] No caso da convenção modelo da ONU, estamos tratando da "alternativa A".

No caso das convenções brasileiras, em razão da grande extensão territorial, ora o Artigo 8 pode tratar apenas da navegação marítima e aérea, como também da navegação fluvial, lacustre e do transporte terrestre internacional.

Na maioria das convenções brasileiras, o lucro da exploração dessas atividades é tributado pelo Estado da direção efetiva da empresa responsável pelo tráfego internacional, como é o caso das convenções com Argentina, Áustria, Bélgica, Canadá, China, Dinamarca, Equador, Eslováquia, República Tcheca, Espanha, França, Hungria, Índia, Itália, México, Noruega, Países Baixos, Portugal, Suécia, Trinidad e Tobago, por fim, Venezuela.

Todavia, em parte das convenções, o Estado de residência da empresa, que pode ou não ser o local da direção efetiva, terá o direito de tributar, como ocorre nos acordos com África do Sul, Chile, Coréia do Sul, Finlândia, Japão, Peru e Turquia.

Nas convenções celebradas com Israel, Rússia e Ucrânia, a regra de tributação é o local da direção efetiva da empresa, contudo, na ausência desta, será o Estado de sua residência.

Excepcionalmente, na convenção Brasil-Filipinas há a previsão de que ambos os Estados contratantes possuem o direito de tributar as empresas de tráfego internacional. Neste caso, caberá ao Estado da residência eliminar a dupla tributação, com as aplicações dos métodos previsto no Artigo 23 da referida convenção.

3.9.Empresas associadas

CM ONU/2017	CM OCDE/2017
ARTIGO 9 Empresas associadas 1. Onde a) uma empresa de um Estado Contratante participa direta ou indiretamente na gestão, controle ou capital de uma empresa do outro Estado Contratante, ou b) as mesmas pessoas participam direta ou indiretamente na gestão, controle e ou capital de uma empresa de um Estado Contratante e uma empresa do outro Estado Contratante, e em ambos os casos as condições são feitas ou impostas entre as duas empresas em suas relações comerciais ou financeiras que diferem daquelas que seriam feitas entre empresas independentes, então todos os lucros que, mas para aquelas condições, acumularam-se a uma das empresas, mas, devido a essas condições, não se acumularam, podem ser incluídas nos lucros dessa empresa e tributados adequadamente.	ARTIGO 9 Empresas associadas 1. Onde a) uma empresa de um Estado Contratante participa direta ou indiretamente na gestão, controle ou capital de uma empresa do outro Estado Contratante, ou b) as mesmas pessoas participam direta ou indiretamente na gestão, controle e ou capital de uma empresa de um Estado Contratante e uma empresa do outro Estado Contratante, e em ambos os casos as condições são feitas ou impostas entre as duas empresas em suas relações comerciais ou financeiras que diferem daquelas que seriam feitas entre empresas independentes, então todos os lucros que, mas para aquelas condições, acumularam-se a uma das empresas, mas, devido a essas condições, não se acumularam, podem ser incluídas nos lucros dessa empresa e tributados adequadamente.

2. Se um Estado Contratante inclua nos lucros de uma empresa desse Estado — e tributados em conformidade — lucros em que uma empresa do outro Estado Contratante foi cobrado de imposto em outro Estado e os lucros assim incluídos são os lucros que teria acumulado para a empresa do primeiro Estado mencionado se as condições entre as duas empresas foram aqueles que teriam sido feitas entre empresas independentes, então que outro Estado deve fazer um adequado ajustamento ao montante do imposto cobrado nele sobre esses lucros. Ao determinar tal ajustamento deve ser tido em conta com as outras provisões da presente Convenção e as autoridades competentes dos Estados Contratantes devem, se necessário, consultar-se mutuamente. 3. As provisões do parágrafo 2 não devem ser aplicadas se procedimentos legais, administrativos ou similares, terem resultado em decisão final que, através de ações que deem origem a um ajuste dos lucros nos termos do parágrafo 1, umas das empresas envolvidas é passível de sanções por fraude, negligência grave ou inadimplência intencional.	2. Se um Estado Contratante inclua nos lucros de uma empresa desse Estado — e tributados em conformidade — lucros em que uma empresa do outro Estado Contratante foi cobrado de imposto em outro Estado e os lucros assim incluídos são os lucros que teria acumulado para a empresa do primeiro Estado mencionado se as condições entre as duas empresas foram aqueles que teriam sido feitas entre empresas independentes, então que outro Estado deve fazer um adequado ajustamento ao montante do imposto cobrado nele sobre esses lucros. Ao determinar tal ajustamento deve ser tido em conta com as outras provisões da presente Convenção e as autoridades competentes dos Estados Contratantes devem, se necessário, consultar-se mutuamente.

O Artigo 9 das convenções modelos, com redações muito similares, e seguido pelo Brasil em todos seus acordos, destaca a possibilidade de os Estados contratantes ajustarem o lucro tributável das empresas residentes, sempre que houver uma associação ou controle entre as empresas envolvidas na relação comercial, de tal forma que as condições obtidas neste relação não existiriam se as empresas fossem totalmente independentes uma da outra.

As condições para o ajuste devem ocorrer se for observada a (i) participação, direta ou indireta, de uma empresa de um Estado contratante na direção, controle ou capital de uma empresa do outro Estado, (ii) participação, direta ou indireta, das mesmas pessoas na direção, controle ou capital de uma empresa de um Estado contratante e de uma empresa do outro Estado contratante, (iii) existência, em ambos os casos, nas suas relações comerciais ou financeiras, de condições vantajosas, que não teria ocorrido se tais empresas fossem independentes[50].

Com relação ao modelo OCDE, em especial o parágrafo 1 do Artigo 9, o Brasil reserva o direito de prever uma abordagem em sua legislação interna que faça uso de margens fixas derivado de práticas da indústria em conformidade com o princípio da concorrência plena.

3.10. Dividendos

[50] MESQUITA, Maria Margarida Cordeiro. *As convenções sobre dupla tributação,* Centro de Estudos Fiscais, Lisboa, 1998.

CM ONU/2017	CM OCDE/2017
ARTIGO 10 Dividendos 1. Os dividendos pagos por uma sociedade residente de um Estado Contratante a um residente do outro Estado Contratante deve ser tributado nesse outro Estado. 2. Todavia, os dividendos pagos por uma sociedade residente de um Estado Contratante também podem ser tributados nesse Estado de acordo com as leis desse Estado, mas se o beneficiário efetivo dos dividendos é um residente do outro Estado Contratante, o imposto assim cobrado não deve exceder: (a) ___ por cento (o percentual é para ser estabelecido por meio de negociação bilateral) do montante bruto dos dividendos se o beneficiário efetivo for uma empresa (outra do que participação) que detém diretamente pelo menos 25% do capital da empresa que está pagando os dividendos por um período de 365 dias que inclui o dia do pagamento do dividendo (para efeitos de cálculo desse período, não devem ser tomadas as alterações de propriedade que resultaria diretamente de reorganização societária, como fusão ou cisão, da empresa que detém as ações ou que paga o dividendo); (b) ___ por cento (o percentual é para ser estabelecido por meio de negociação bilateral) do montante bruto dos dividendos em todos os outros casos. As autoridades competentes dos Estados contratantes estabelecerão, de comum acordo, o modo de aplicação destas limitações. Esse parágrafo não deve afetar a tributação da sociedade relativamente aos lucros a partir dos quais os dividendos são pagos. 3. O termo "dividendos", tal como utilizado no presente Artigo, significa rendimentos de ações, do proveito de ações ou proveito de direitos, ações de mineração, ações dos fundadores ou outros direitos, não sendo reivindicações de dívidas, participando de lucros, bem como rendimentos de outros direitos das sociedades que sejam sujeitos ao mesmo tratamento fiscal que os rendimentos de ações pelas leis do Estado de que a empresa que faz a distribuição é um residente. 4. As provisões dos parágrafos 1 e 2 não são aplicáveis se o beneficiário efetivo dos dividendos, sendo residente de um Estado Contratante, exerce as suas atividades no outro Estado Contratante de que a sociedade que paga os dividendos é residente através de um estabelecimento permanente situado nele e da exploração em relação ao qual os dividendos são pagos está efetivamente ligado a esse estabelecimento permanente. Em tais casos as provisões dos Artigos 7 e 14, como o caso exigir, são aplicáveis. 5. Se uma sociedade residente de um Estado Contratante receber lucros ou rendimentos do outro Estado Contratante, que o outro Estado pode não impor qualquer imposto sobre os dividendos pagos pela empresa, exceto na medida em que tais dividendos sejam pagos a um residente desse outro Estado ou na medida em que a exploração em relação à qual os dividendos são pagos está efetivamente ligadas a um estabelecimento permanente situado nesse outro Estado, nem sujeitar os lucros não distribuídos da empresa a um imposto sobre os lucros não distribuídos, mesmo que os dividendos pagos ou os lucros não distribuídos consistam total ou parcialmente dos lucros ou rendimentos resultantes de outro Estado.	ARTIGO 10 Dividendos 1. Os dividendos pagos por uma sociedade residente de um Estado Contratante a um residente do outro Estado Contratante deve ser tributado nesse outro Estado. 2. Todavia, os dividendos pagos por uma sociedade residente de um Estado Contratante também podem ser tributados nesse Estado de acordo com as leis desse Estado, mas se o beneficiário efetivo dos dividendos é um residente do outro Estado Contratante, o imposto assim cobrado não deve exceder: a) 5% do montante bruto dos dividendos se o beneficiário efetivo for uma empresa que detém diretamente pelo menos 25% do capital da empresa que está pagando os dividendos por um período de 365 dias que inclui o dia do pagamento do dividendo (para efeitos de cálculo desse período, não devem ser tomadas as alterações de propriedade que resultaria diretamente de uma reorganização societária, como uma fusão ou cisão, da empresa que detém as ações ou que paga o dividendo); b) 15% do montante bruto dos dividendos em todos os outros casos. As autoridades competentes dos Estados Contratantes estabelecerão, de comum acordo, o modo de aplicação destas limitações. O presente parágrafo não afeta a tributação da sociedade relativamente aos lucros a partir dos quais os dividendos são pagos. 3. O termo "dividendos", tal como utilizado no presente Artigo, significa rendimentos de ações, do proveito de ações ou proveito de direitos, ações de mineração, ações dos fundadores ou outros direitos, não sendo reivindicações de dívidas, participando de lucros, bem como rendimentos de outros direitos das sociedades que sejam sujeitos ao mesmo tratamento fiscal que os rendimentos de ações pelas leis do Estado de que a empresa que faz a distribuição é um residente. 4. As provisões dos parágrafos 1 e 2 não são aplicáveis se o beneficiário efetivo dos dividendos, sendo residente de um Estado Contratante, exerce as suas atividades no outro Estado Contratante de que a sociedade que paga os dividendos é residente através de um estabelecimento permanente situado nele e da exploração em relação ao qual os dividendos são pagos está efetivamente ligado a esse estabelecimento permanente. Em tais casos as provisões do Artigo 7 são aplicáveis. 5. Se uma sociedade residente de um Estado Contratante receber lucros ou rendimentos do outro Estado Contratante, que o outro Estado pode não impor qualquer imposto sobre os dividendos pagos pela empresa, exceto na medida em que tais dividendos sejam pagos a um residente desse outro Estado ou na medida em que a exploração em relação à qual os dividendos são pagos está efetivamente ligadas a um estabelecimento permanente situado nesse outro Estado, nem sujeitar os lucros não distribuídos da empresa a um imposto sobre os lucros não distribuídos, mesmo que os dividendos pagos ou os lucros não distribuídos consistam total ou parcialmente dos lucros ou rendimentos resultantes de outro Estado.

Tratando-se da tributação de dividendos, as convenções modelos da ONU e da OCDE caminharam no decorrer dos anos praticamente com a mesma redação, inclusive, a última alteração ocorrida na alínea “a” do parágrafo 2, em ambos os casos realizada no ano de 2017, que inclui o prazo de 365 dias para fins de limitação temporal, foi a mesma para as duas organizações internacionais.

O que diferencia os modelos é, no caso do modelo ONU, o percentual de tributação está "em branco" para livre negociação dos Estados contratantes, enquanto no modelo OCDE são especificados os percentuais que entendem adequados para tributar os dividendos, nas hipóteses previstas nos itens "a" (5%) e "b" (15%) do parágrafo 2.

O Brasil, em suas convenções, não adota a taxa de 5% indicada pela OCDE para as hipóteses previstas na alínea "a" do parágrafo segundo. A menor das taxas (ou alíquotas) aplicadas pelo país é de 10%, sendo que em 21 dos acordos em vigor os Estados contratantes adotam taxa única de 15% para qualquer hipótese de distribuição de dividendos.

Outrossim, não obstante a previsão do Artigo 10 que permite aos Estados contratantes tributarem a distribuição de lucros, não significa dizer que o são obrigados. A legislação fiscal brasileira[51], por exemplo, isenta os dividendos de tributação, sejam eles distribuídos para pessoas residentes no país ou no exterior. Logo, até que se altere a legislação interna, mesmo existindo previsão nas CDT's em vigor, não haverá a tributação dos dividendos pelo Brasil.

No mais, oportuno registrar que as convenções de que o Brasil é signatário, assim como as convenções modelos, preveem dispositivo que afasta a regra de tributação dos dividendos quando o beneficiário efetivo possui um estabelecimento permanente no outro Estado contratante, e a participação geradora dos dividendos lhe esteja diretamente ligada. Neste caso, o Estado da fonte, de acordo com sua legislação interna, tributará os dividendos.

3.11. Juros

[51] Lei nº 9.249, de 26 de dezembro de 1995: "Art. 10. Os lucros ou dividendos calculados com base nos resultados apurados a partir do mês de janeiro de 1996, pagos ou creditados pelas pessoas jurídicas tributadas com base no lucro real, presumido ou arbitrado, não ficarão sujeitos à incidência do imposto de renda na fonte, nem integrarão a base de cálculo do imposto de renda do beneficiário, pessoa física ou jurídica, domiciliado no País ou no exterior. § 1º No caso de quotas ou ações distribuídas em decorrência de aumento de capital por incorporação de lucros apurados, a partir do mês de janeiro de 1996, ou de reservas constituídas com esses lucros, o custo de aquisição será igual à parcela do lucro ou reserva capitalizado, que corresponder ao sócio ou acionista. § 2º A não incidência prevista no caput inclui os lucros ou dividendos pagos ou creditados a beneficiários de todas as espécies de ações previstas no art. 15 da Lei nº 6.404, de 15 de dezembro de 1976, ainda que a ação seja classificada em conta de passivo ou que a remuneração seja classificada como despesa financeira na escrituração comercial. § 3º Não são dedutíveis na apuração do lucro real e da base de cálculo da CSLL os lucros ou dividendos pagos ou creditados a beneficiários de qualquer espécie de ação prevista no art. 15 da Lei nº 6.404, de 15 de dezembro de 1976, ainda que classificados como despesa financeira na escrituração comercial."

CM ONU/2017	CM OCDE/2017
ARTIGO 11 Juros 1. Os juros provenientes de um Estado Contratante e pagos a um residente do outro Estado Contratante deve ser tributado nesse outro Estado. 2. Todavia, os juros resultantes de um Estado Contratante podem também ser tributados nesse Estado de acordo com as leis desse Estado, mas se o beneficiário efetivo dos juros for um residente do outro Estado Contratante, o imposto assim cobrado não deve exceder ___ por cento (o percentual é para ser estabelecido por meio de negociação bilateral) do montante bruto dos juros. As autoridades competentes dos Estados Contratantes devem estabelecer, de comum acordo, o modo de aplicação desta limitação. 3. O termo "juros" utilizado no presente Artigo significa rendimentos de créditos de todos os tipos, quer ou não garantidos por hipoteca e se ou não tendo o direito de participação nos lucros do devedor e, em particular, os rendimentos dos títulos de Governo e rendimentos de títulos ou debêntures, incluindo prêmios vinculados a tais títulos, obrigações ou debêntures. Taxas de penalidade para pagamento tardio não devem ser considerados como juros para efeitos do presente Artigo. 4. As provisões dos parágrafos 1 e 2 não é aplicável se o beneficiário efetivo dos juros, sendo residente de um Estado Contratante, exerce as suas atividades no outro Estado Contratante em que os juros surgem através de um estabelecimento permanente nele situado e a reivindicação da dívida em relação à qual o juro é pago é efetivamente ligada a (a) tal estabelecimento permanente ou base fixa, ou com (b) atividades de negócios referidas no (c) parágrafo 1 do Artigo 7. Nestes casos, as provisões dos Artigos 7 ou 14, como o caso exigir, devem ser aplicadas. 5. Considera-se que os juros surgem num Estado Contratante quando o pagador é residente desse Estado. Onde, entretanto, a pessoa que paga o juros, se ele é um residente de um Estado Contratante ou não, tem num Estado Contratante um estabelecimento permanente ou base fixa em relação ao qual o endividamento em que os juros é pago foi incorrido, e esse juros é suportado por esse estabelecimento permanente ou base fixa, considerar-se-á que tal juro é originado no Estado em que o estabelecimento permanente ou base fixa está situado. 6. Sempre que, devido a uma relação especial entre o pagador e o beneficiário efetivo ou entre ambos e outra pessoa, o montante do juros, tendo em conta a reivindicação da dívida para a qual é paga, excede o montante que foram acordados pelo pagador e pelo beneficiário efetivo na ausência de tal relação, as provisões do presente Artigo aplicam-se apenas ao último valor mencionado. Nesse caso, a parte excedente dos pagamentos permanecerá tributável de acordo com legislação de cada Estado Contratante, observando-se as outras disposições da presente Convenção.	ARTIGO 11 Juros 1. Os juros provenientes de um Estado Contratante e pagos a um residente do outro Estado Contratante deve ser tributado nesse outro Estado. 2. Todavia, os juros resultantes de um Estado Contratante podem também ser tributados nesse Estado de acordo com as leis desse Estado, mas se o beneficiário efetivo dos juros for um residente do outro Estado Contratante, o imposto assim cobrado não deve exceder 10% do montante bruto dos juros. As autoridades competentes dos Estados Contratantes devem estabelecer, de comum acordo, o modo de aplicação desta limitação. 3. O termo "juros" utilizado no presente Artigo significa rendimentos de créditos de todos os tipos, quer ou não garantidos por hipoteca e se ou não tendo o direito de participação nos lucros do devedor e, em particular, os rendimentos dos títulos de Governo e rendimentos de títulos ou debêntures, incluindo prêmios vinculados a tais títulos, obrigações ou debêntures. Taxas de penalidade para pagamento tardio não devem ser considerados como juros para efeitos do presente Artigo. 4. As provisões dos parágrafos 1 e 2 não é aplicável se o beneficiário efetivo dos juros, sendo residente de um Estado Contratante, exerce as suas atividades no outro Estado Contratante em que os juros surgem através de um estabelecimento permanente nele situado e a reivindicação da dívida em relação à qual o juro é pago é efetivamente ligada a esse estabelecimento permanente. Nesse caso, as provisões do Artigo 7 são aplicáveis. 5. Considera-se que os juros surgem num Estado Contratante quando o pagador é residente desse Estado. Onde, entretanto, a pessoa que paga o juros, se ele é um residente de um Estado Contratante ou não, tem num Estado Contratante um estabelecimento permanente em relação ao qual o endividamento em que os juros é pago foi incorrido, e esse juros é suportado por esse estabelecimento permanente, considerar-se-á que tal juro é originado no Estado em que o estabelecimento permanente está situado. 6. Sempre que, devido a uma relação especial entre o pagador e o beneficiário efetivo ou entre ambos e outra pessoa, o montante do juros, tendo em conta a reivindicação da dívida para a qual é paga, excede o montante que foram acordados pelo pagador e pelo beneficiário efetivo na ausência de tal relação, as provisões do presente Artigo aplicam-se apenas ao último valor mencionado. Nesse caso, a parte excedente dos pagamentos permanecerá tributável de acordo com legislação de cada Estado Contratante, observando-se as outras disposições da presente Convenção.

Com relação aos juros, assim como os dividendos, as convenções modelos da ONU e da OCDE possuem praticamente a mesma redação. No caso da ONU, o percentual de tributação está “em branco” para livre negociação dos Estados contratantes, enquanto no modelo OCDE é especificado um único percentual de 10% para o Estado da fonte tributar os juros.

O Brasil adota em suas convenções, em regra, a taxa de 15% para a tributação dos juros, sendo que em alguns acordos há situações excepcionais que também permitem a tributação às taxas de 10% (Bélgica, Coréia do Sul, Eslováquia, República Tcheca, Espanha, França, Hungria, Luxemburgo e Países Baixos), 12,5% (Japão) e 25% (Suécia).

Como para os dividendos, oportuno registrar que as convenções de que o Brasil é signatário, assim como as convenções modelos, preveem dispositivo que afasta a regra de tributação dos juros quando o beneficiário efetivo possui um estabelecimento permanente no outro Estado contratante, e a participação geradora dos juros lhe esteja diretamente ligada. Neste caso, o Estado da fonte, de acordo com sua legislação interna, tributará os juros.

Por fim, importante destacar a cláusula antiabuso prevista no parágrafo 6 das convenções modelos, e replicado em todas as convenções brasileiras. Esta regra dispõe que, em decorrência de relações especiais entre o devedor dos juros e o credor, eventual valor que exceder ao que seria usualmente aceito em uma relação com partes independentes deverá ser tributado de acordo com a lei interna de cada Estado contratante, observando-se as demais disposições da respectiva convenção. Nota-se que para fins de aplicação desta regra, o conceito de pessoas ligadas por uma relação especial é mais amplo do que a previsão do Artigo 9, abrangendo toda e qualquer relação de interesse que dá lugar ao pagamento de juros, e não somente eventual relação jurídica entre as partes.[52]

Por fim, acerca da convenção modelo OCDE, o Brasil se reserva o direito de considerar multas por atraso de pagamento como juros para fins desse artigo, de acordo com sua legislação interna.

3.12. Royalties

CM ONU/2017	CM OCDE/2017
ARTIGO 12 Royalties 1. Royalties provenientes de um Estado Contratante e beneficiário efetivo residente de outro Estado Contratante só é tributável nesse outro Estado. 2. Entretanto, tais royalties também podem ser taxados no Estado contratante do qual provem e de acordo com a lei interna esse Estado, mas se o beneficiário efetivo dos royalties é um residente do outro Estado contratante, o imposto cobrado não deve exceder __ por cento (o percentual é para ser estabelecimento mediante negociação bilateral) do montante bruto dos royalties. As autoridades competentes dos Estados contratantes devem, por acordo mútuo, acordar o modo de aplicação desta limitação.	ARTIGO 12 Royalties 1. Royalties provenientes de um Estado Contratante e beneficiário efetivo residente de outro Estado Contratante só é tributável nesse outro Estado. 2. O termo "royalties" utilizado no presente Artigo significa pagamentos de qualquer tipo recebidos como uma consideração para o uso de, ou o direito de usar, qualquer direito literário, artístico ou trabalho científico, incluindo filmes cinematográficos, qualquer patente, marca, design ou modelo, plano, fórmula secreta ou processo, ou para informações concernentes a experiências industrial, comercial ou científica.

[52] BAKER, Philip. *Double Taxation Conventions and International Tax Law*, Sweet & Maxwell, London, 1994.

3. O termo "royalties" utilizado no presente Artigo significa pagamentos de qualquer tipo recebidos como uma consideração para o uso de, ou o direito de usar, qualquer direito literário, artístico ou trabalho científico, incluindo filmes cinematográficos, ou filmes ou fitas usados em transmissão de rádio ou televisão, qualquer patente, marca, design ou modelo, plano, fórmula secreta ou processo, ou para o uso de ou direito de uso de equipamentos industriais, comerciais e cientificados, ou para informações concernentes a experiências industriais, comerciais ou científica.
4. As provisões dos parágrafos 1 e 2 não são aplicáveis se o beneficiário efetivo dos royalties, sendo residente de um Estado contratante, exerce sua atividade no outro Estado contratante em que os royalties surgem através de um estabelecimento permanente nele situado, ou desenvolva no outro Estado serviços profissionais independentes de uma base fixa nele situado, e o direito ou propriedade em relação ao qual os royalties são pagos é efetivamente relacionado com (a) tal estabelecimento permanente ou base fixa, ou com (b) atividades de negócios referidas no (c) parágrafo 1 do Artigo 7. Nesse caso, as provisões dos Artigo 7 e 14, como o caso exigir, são aplicáveis.
5. Royalties devem ser considerados como surgidos em um Estado contratante quando o pagador é residente desse Estado. Se, entretanto, a pessoa que paga os royalties, se é um residente do Estado contratante ou não, tem em um Estado contratante um estabelecimento permanente ou uma base fixa em conexão com que a responsabilidade de pagar os royalties incorreu, e tais royalties surgiram por tal estabelecimento permanente ou base fixa, então, tais royalties devem ser considerados como surgido no Estado contratante no qual o estabelecimento permanente ou base fixa está situado.
6. Se, por qualquer razão de uma relação especial entre o pagador e o beneficiário efetivo ou entre ambos e uma terceira pessoa, o montante dos royalties, relacionados ao uso, direito ou informações sobre o qual são pagos, exceda o montante que seria acordado entre o pagador e o beneficiário efetivo na ausência de tal relação, as provisões deste Artigo devem ser aplicadas somente sobre a última parte mencionada. Nestes casos, parte do excesso dos pagamentos devem continuar a ser tributada de acordo com a legislação de cada Estado contratante, observando as outras provisões desta Convenção.

Artigo 12A
Remuneração por Serviços Técnicos
1. Remuneração por serviços técnicos surgidas em um Estado contratante e pagas a um residente do outro Estado contratante devem ser tributadas nesse outro Estado.
2. Entretanto, não obstante as provisões do Artigo 14 e sujeito as provisões dos Artigos 8, 16 e 17, remunerações por serviços técnicos surgidas em um Estado contratante também podem ser tributadas nesse Estado contratante no qual se originou e de acordo com as leis desse Estado, mas se o beneficiário efetivo destas remunerações é um residente do outro Estado contratante, o percentual do tributo cobrado não deve exceder ___ por cento do montante bruto da remuneração (o percentual é para ser estabelecido por meio de negociação bilateral).
3. O termo “remuneração por serviços técnicos), como usado nesse Artigo, significa qualquer pagamento em consideração a serviço de qualquer natureza gerencial, técnico ou consultoria, a não ser que o pagamento efeito: (a) para um empregado da pessoa que está fazendo o pagamento; (b) por aula em uma instituição educacional ou por aula para uma instituição educacional; ou (c) por um indivíduo por serviços de uso pessoal de um indivíduo.
3. As provisões do parágrafo 1 não são aplicáveis se o beneficiário efetivo dos royalties, sendo residente de um Estado Contratante, exerce a sua atividade no outro Estado Contratante em que os royalties surgem através de um estabelecimento permanente nele situado e o direito ou propriedade relativamente aos quais os royalties são pagos são efetivamente ligados a esse estabelecimento permanente. Nesse caso, as provisões do Artigo 7 são aplicáveis.
4. Sempre que, devido a uma relação especial entre o pagador e o beneficiário efetivo ou entre ambos e outra pessoa, o montante dos royalties, tendo em conta a utilização, o direito ou a informação para a qual são pagos, excede o montante que teria sido acordado pelo pagador e pelo beneficiário efetivo diante da ausência dessa relação, as provisões do presente Artigo aplicam-se apenas à último valor mencionado. Nesse caso, a parte excedente dos pagamentos deve se manter tributáveis de acordo com as leis de cada Estado Contratante, tendo em conta as outras disposições da presente Convenção.

4. As provisões dos parágrafos 1 e 2 não são aplicáveis se o beneficiário efetivo da remuneração por serviços técnicos, sendo residente de um Estado contratante, exerce sua atividade no outro Estado contratante em que a remuneração por serviços técnicos surgem através de um estabelecimento permanente nele situado, ou desenvolva no outro Estado serviços profissionais independentes de uma base fixa nele situado, e a remuneração por serviços técnicos é efetivamente relacionado com (a) tal estabelecimento permanente ou base fixa, ou com (b) atividades de negócios referidas no (c) parágrafo 1 do Artigo 7. Nesse caso, as provisões dos Artigo 7 e 14, como o caso exigir, são aplicáveis.
5. Para a aplicação do presente Artigo, em respeito ao parágrafo 6, remunerações por serviço técnico devem ser considerados como surgidos em um Estado contratante quando o pagador é residente desse Estado. Se, entretanto, a pessoa que paga a remuneração, se é um residente do Estado contratante ou não, tem em um Estado contratante um estabelecimento permanente ou uma base fixa em conexão com que a responsabilidade de pagar a remuneração incorreu, e tais remunerações surgiram por tal estabelecimento permanente ou base fixa, então, tais remunerações devem ser considerados como surgido no Estado contratante no qual o estabelecimento permanente ou base fixa está situado.
6. Para a aplicação deste Artigo, remuneração por serviço técnico não deve ser considerada como originada em um Estado contratante se o pagador é um residente daquele Estado e desenvolve seus negócios nesse Estado por meio de um estabelecimento permanente situado nesse Estado ou desenvolva serviços pessoais independentes por meio de uma base situada nesse outro Estado e tal remuneração surgiu através daquele estabelecimento permanente ou base fixa.
7. Se, por qualquer razão de uma relação especial entre o pagador e o beneficiário efetivo ou entre ambos e uma terceira pessoa, o montante da remuneração, relacionados ao serviço sobre o qual são pagos, exceda o montante que seria acordado entre o pagador e o beneficiário efetivo na ausência de tal relação, as provisões deste Artigo devem ser aplicadas somente sobre a última parte mencionada. Nestes casos, parte do excesso dos pagamentos da remuneração devem continuar a ser tributada de acordo com a legislação de cada Estado contratante, observando as outras provisões desta Convenção.

Segundo a convenção modelo OCDE, o Estado de residência tem o poder exclusivo de tributar os valores pagos a título de royalties, ou seja, o Estado onde está localizado o credor (recebedor dos royalties) seria o único apto a tributar.

Por outro lado, a convenção modelo da ONU, seguido pelo Brasil em todas suas convenções, prevê a possibilidade tanto do Estado de residência do credor quanto o Estado da fonte dos royalties exercerem o poder de tributar o pagamento de tais valores. Caso os dois Estados exerçam seu poder, caberá ao Estado da residência eliminar a dupla tributação.

Em regra, as convenções brasileiras limitam a tributação dos royalties ao percentual de 15%, porém há exceções que permitem a tributação nos percentuais de 10% a 25%, a depender do caso.

Taxa de Royalties – Convenções Brasileiras[53]

País	Royalties	País	Royalties	País	Royalties	País	Royalties
África do Sul	15% (e) 10% (b)	**Dinamarca**	25% (e) 15% (b)	**Índia**	25% (e) 15% (b)	**Peru**	15%
Argentina	15% (e) 10% (b)	**Equador**	25% (e) 15% (b)	**Israel**	15% (e) 10 (b)	**Portugal**	15%
Áustria	10% (f) 25% (e) 15% (b)	**Eslováquia/ Rep. Tcheca**	25% (e) 15% (b)	**Itália**	25% (e) 15% (b)	**Rússia**	15%
Bélgica	10% (f) 20% (e) 15% (b)	**Espanha**	10% (n) 15% (b)	**Japão**	25% (e) 15% (s) 12,5% (b)	**Suécia**	25% (e) 15% (b)
Canadá	25% (e) 15% (b)	**Filipinas**	25% (p) 15% (b)	**Luxemburgo**	25% (p) 15% (b)	**Trinidad e Tobago**	15%
Chile	15%	**Finlândia**	10% (n) 25% (e) 15% (b)	**México**	15%	**Turquia**	15% (e) 10% (b)
China	25% (e) 15% (b)	**França**	10% (n) 25% (e) 15% (b)	**Noruega**	25% (p) 15% (b)	**Ucrânia**	15%
Coréia do Sul	25% (e) 15% (b)	**Hungria**	25% (e) 15% (b)	**Países Baixos**	25% (e) 15% (b)	**Venezuela**	15%

A definição do termo “royalties” é muito semelhante entre as convenções modelos, e a interpretação de ambas deve ser realizada da mesma forma, porém a convenção modelo da ONU, além da definição dada pela OCDE, inclui expressamente que a remuneração por filmes ou gravações utilizadas nas estações de rádio ou televisão se dá por meio do pagamento de royalties. As convenções brasileiras, com exceção do acordo celebrado com a França, adotam o modelo da ONU.[54]

53

NOTAS:
(b) em todos os outros casos.
(e) provenientes do uso ou da concessão do uso de marcas de indústria ou de comércio.
(f) provenientes do uso ou da concessão do uso de um direito de autor sobre uma obra literária, artística ou científica, excluídos os de filmes cinematográficos, filmes ou fitas de gravação de programas de televisão ou radiodifusão.
(n) royalties pagos pelo uso ou pela concessão do uso de direito de autor sobre obras literárias, artísticas ou científicas (inclusive os filmes cinematográficos, filmes ou fitas de gravação de programas de televisão ou radiodifusão, quando produzidos por um residente de um dos Estados contratante).
(p) royalties provenientes do uso da concessão do uso de marcas de indústria ou comércio e de filmes cinematográficos, filmes ou fitas de gravação de programas de televisão ou radiodifusão.
(s) royalties provenientes do uso ou da concessão do uso de direito de autor sobre filmes cinematográficos e filmes ou fitas de gravação de programas de radiodifusão ou televisão.

[54] Para fins de aplicação da legislação brasileira, oportuno mencionar que a tributação prevista no Artigo 12 das convenções modelo não se aplicam em relação ao pagamento decorrente de prestações de serviços em contratos que não envolvam transferência de tecnologia. Isso, pois, o pagamento por serviços que não envolve transferência de tecnologia será tributado de acordo com as disposições do Artigo 7 das convenções modelo. (TORRES, Heleno Taveira. *Interpretação das Convenções para evitar a Dupla Tributação e*

Frise-se que nas convenções brasileiras, com exceção do acordo com a Finlândia, será incluído na tributação dos royalties o uso e a concessão de uso de equipamentos industriais, comerciais e científicos. Não há, atualmente, esta previsão na convenção modelo OCDE (a qual foi excluída na revisão do modelo em 1992), porém ela se mantém na convenção modelo ONU. Os rendimentos decorrentes do uso de equipamentos (aluguel), segundo a atual convenção modelo da OCDE, devem ser tributados de acordo com os demais Artigos da convenção. Todavia, no caso da convenção modelo da OCDE, o Brasil se reserva ao direito de continuar a incluir na definição de royalties a receita derivada de locação de equipamentos industriais, comerciais ou científicos, previsto na redação da convenção modelo de 1977.

No mais, com relação a convenção modelo da ONU, na revisão realizada no ano de 2017, foi acrescentado o Artigo 12-A para tratar da remuneração por prestação de serviços técnicos, diferenciando-os da remuneração dos royalties pelo fornecimento de know-how. Enquanto a remuneração dos royalties deriva da transmissão dos conhecimentos (know-how), os serviços técnicos são prestados pelo próprio fornecedor que, ao invés de transmitir seu conhecimento, irá ele próprio aplicá-los no trabalho. Por se tratar de recente alteração, as convenções brasileiras não possuem previsão semelhante ao Artigo 12-A da convenção modelo ONU.

Por último, importante destacar que as convenções modelos, assim como todas as convenções brasileiras, possuem nos parágrafos finais das regras dos royalties disposição antiabuso, permitindo aos Estados contratantes aplicarem seu regime interno quando verificarem que, em virtude de relações especiais entre o devedor e o beneficiário dos royalties, o montante pago a título de royalties foi excessivo.

3.13. Mais-valias

CM ONU/2017	CM OCDE/2017
ARTIGO 13 Ganhos de capital 1. Os ganhos recebidos por um residente de um Estado Contratante da alienação de bens imóveis referidos no Artigo 6 e situados no outro Estado Contratante devem ser tributados nesse outro Estado.	ARTIGO 13 Ganhos de capital 1. Os ganhos recebidos por um residente de um Estado Contratante da alienação de bens imóveis referidos no Artigo 6 e situados no outro Estado Contratante devem ser tributados nesse outro Estado.

Prestações de Serviços. In: Estudos em Homenagem ao Professor Doutor Alberto Xavier, Ed. Almedina, vol. 01).

2. Ganhos da alienação de bens móveis que fazem parte do negócio de um estabelecimento estável que uma empresa de um Estado Contratante tem no outro Estado Contratante o de propriedade móvel pertencente a uma base fixa disponível para um residente de um Estado Contratante no outro Estado Contratante com o objetivo de desenvolver serviços pessoais independentes, incluindo em tais ganhos os resultantes da alienação desse estabelecimento estável (sozinho ou com toda a empresa) ou de tal base fixa, podem ser tributados no outro Estado. 3. Ganhos que uma empresa de um Estado Contratante que opere navios ou aeronaves em tráfego internacional derivado da alienação de tais navios ou aeronaves, ou de bens móveis pertencentes a operação desses navios ou aeronaves, só podem ser tributados nesse estado. 4. Ganhos recebidos por um residente de um Estado Contratante da alienação de ações ou direitos comparáveis, tais como os interesses numa sociedade ou *trust*, podem ser tributados no outro Estado Contratante se, em qualquer momento durante os 365 dias anteriores à alienação, essas ações ou direitos comparáveis derivaram mais de 50% do seu valor direta ou indiretamente de bens imóveis, tal como definido no Artigo 6, situado naquele outro Estado. 5. Ganhos, com exceção do parágrafo 4, recebidos por um residente de um Estado Contratante da alienação de quotas de uma empresa ou direitos comparáveis, como participação em sociedades ou *trusts*, que é residente do outro Estado Contratante, deve ser tributados nesse outro Estado Contratante se, a qualquer tempo durante os 365 dias anteriores à alienação, detiver diretamente ou indiretamente pelo menos ___ por cento (o percentual deve ser estabelecido por meio de negociação bilateral) do capital dessa empresa. 6. Os ganhos da alienação de qualquer propriedade, com exceção das referidas nos parágrafos 1, 2, 3, 4 e 5, só podem ser tributados no Estado Contratante de que o alienante é um residente.	2. Ganhos da alienação de bens móveis que fazem parte do negócio de um estabelecimento estável que uma empresa de um Estado Contratante tem no outro Estado Contratante, incluindo em tais ganhos os resultantes da alienação desse estabelecimento estável (sozinho ou com toda a empresa), podem ser tributados no outro Estado. 3. Ganhos que uma empresa de um Estado Contratante que opere navios ou aeronaves em tráfego internacional derivado da alienação de tais navios ou aeronaves, ou de bens móveis pertencentes a operação desses navios ou aeronaves, podem ser tributados nesse estado. 4. Ganhos recebidos por um residente de um Estado Contratante da alienação de ações ou direitos comparáveis, tais como os interesses numa sociedade ou *trust*, podem ser tributados no outro Estado Contratante se, em qualquer momento durante os 365 dias anteriores à alienação, essas ações ou direitos comparáveis derivaram mais de 50% do seu valor direta ou indiretamente de bens imóveis, tal como definido no Artigo 6, situado naquele outro Estado. 5. Os ganhos da alienação de qualquer propriedade, com exceção das referidas nos parágrafos 1, 2, 3 e 4, só podem ser tributados no Estado Contratante de que o alienante é um residente.

O Artigo 13, tanto do modelo OCDE quanto da ONU, inserido com certas modificações em todas as convenções brasileiras, regula a tributação sobre as mais-valias ou, de acordo com a legislação interna brasileira, os “ganhos de capital”.

Em regra, quando se trata de mais-valia decorrente da venda de bem imóvel, a tributação deve ocorrer no Estado da situação do bem. As convenções brasileiras assinadas com Argentina, Canadá e Equador, todavia, sem distinguir entre bens imóveis e móveis, estipula que ambos os Estados contratantes podem tributar de acordo com sua legislação interna as mais-valias. As convenções celebradas com África do Sul, Finlândia e Israel, preveem expressamente, não obstante as disposições do Artigo 6, que a alienação de quotas de empresas cujo ativo sejam bens imobiliários, que a tributação ocorrerá no local da situação dos imóveis.

Com relação a alienação de navios e aeronaves utilizados no tráfego internacional, regra geral, a tributação da mais-valia ocorrerá no local da sede ou direção efetiva da empresa, como previsto nas convenções modelos e na maioria da convenções de que o Brasil é signatário, com exceção dos acordos com a Coréia do Sul, Filipinas, Finlândia, Peru e Turquia, que preveem a tributação pelo Estado de que a empresa for

residente. O acordo celebrado com o Japão, por sua vez, prevê a isenção do imposto sobre a mais-valia sobre tais operações.

Com relação a mais-valia decorrente da alienação de bens móveis, a regra é a tributação por ambos os Estados contratantes, de acordo com as respectivas legislações internas. Apenas a convenção celebrada com o Japão prevê que a mais-valia decorrente da alienação de bens móveis deverá ser tributada pelo Estado de residência do alienante.

Por fim, a convenção celebrada com Israel dispõe que a mais-valia decorrente da alienação de quotas de uma sociedade será tributada pelo Estado da residência da empresa, todavia, o imposto não poderá exceder 15% do montante bruto de tais ganhos.

3.14. Profissões independentes

CM ONU/2017	CM OCDE/2017
Artigo 14 Serviços Pessoais Independentes 1. Rendimento recebido por um residente de um Estado Contratante em respeito a serviços profissionais ou outras atividades de natureza independente devem ser tributados somente nesse Estado, exceto nas seguintes circunstâncias, quando tal rendimento também pode ser tributado no outro Estado Contratante: a) Se ele tiver uma base fixa regularmente disponível para ele no outro Estado Contratante com o objetivo de desenvolver suas atividades; nesse caso, somente com relação ao rendimento atribuído àquela base fixa, pode ser tributado no outro Estado Contratante; ou b) Se ele permanecer no outro Estado Contratante por um período ou agrupamento de períodos que exceda no agregado 183 dias em qualquer período de 12 meses que comece ou termine no ano fiscal em referência; nesse caso, somente a parte dos rendimentos recebidos das atividades desenvolvidas nesse outro Estado pode ser tributada nesse outro Estado. 2. O termo "serviços profissionais" inclui especialmente atividades independentes de natureza científica, literária, artística, educacional ou magistério, assim como atividades independentes de físicos, advogados, engenheiros, arquitetos, dentistas e contadores.	[ARTIGO 14 - SERVIÇOS PESSOAIS INDEPENDENTES] [EXCLUÍDO]

Sobre as atividades de caráter independente, como os profissionais liberais, por exemplo, a convenção modelo da ONU estabelece que a regra é a tributação dos rendimentos pelo Estado de residência. Todavia, se o profissional independente possuir uma base fixa ou permanecer mais de 183 dias no Estado que está prestando o serviço, este Estado poderá tributar seus rendimentos. Tal tributação foi retirada da convenção modelo da OCDE na revisão realizada no ano de 2000.

De acordo com os comentários da convenção modelo da OCDE, referido Artigo foi excluído pelo fato de não existir diferenças entre o conceito de estabelecimento permanente, utilizado no Artigo 7, e base fixa, utilizado no Artigo 14, ou como os lucros

devem ser computados e calculados, de acordo com os Artigos 7 ou 14. Além disso, não havia clara distinção quando uma atividade deveria ser enquadrada no Artigo 14 ou no Artigo 7. Com isso, a exclusão do Artigo 14 implica na aplicação do Artigo 7.

Todas as convenções brasileiras, inclusive a mais recente (Convenção Brasil-Rússia, 2017) possuem dispositivo que trata da tributação de profissionais independentes.

3.15. Profissões dependentes

CM ONU/2017	CM OCDE/2017
ARTIGO 15 Rendimentos do emprego 1. Reservada às provisões dos Artigos 16, 18 e 19, os salários, ordenados e outras remunerações similares recebidas por um residente de um Estado Contratante em relação a emprego só é tributável nesse estado, a menos que o emprego seja exercido no outro Estado Contratante. Se o emprego for assim exercido, as remunerações daí resultante podem ser tributadas nesse outro Estado. 2. Não obstante as provisões do parágrafo 1, a remuneração percebida por um residente de um Estado Contratante no que diz respeito a um emprego exercido no outro Estado Contratante só é tributável no primeiro Estado se: a) o beneficiário está presente no outro Estado por um período ou períodos que não excedam no agregado 183 dias em qualquer período de doze meses, começando ou terminando, em ano fiscal em causa, e b) a remuneração é paga por ou em nome de um empregador que não seja residente do outro Estado, e c) a remuneração não é suportada por um estabelecimento permanente que o empregador tem no outro Estado. 3. Não obstante as disposições precedentes do presente Artigo, a remuneração recebida por um residente de um Estado Contratante em relação a um emprego, enquanto membro do complemento regular de um navio ou aeronave, que é exercida a bordo de um navio ou aeronave operado em tráfego internacional, que não a bordo de um navio ou aeronave operado unicamente no outro Estado Contratante, só podem ser tributados no primeiro Estado.	ARTIGO 15 Rendimentos do emprego 1. Reservada às provisões dos Artigos 16, 18 e 19, os salários, ordenados e outras remunerações similares recebidas por um residente de um Estado Contratante em relação a emprego só é tributável nesse estado, a menos que o emprego seja exercido no outro Estado Contratante. Se o emprego for assim exercido, as remunerações daí resultante podem ser tributadas nesse outro Estado. 2. Não obstante as provisões do parágrafo 1, a remuneração percebida por um residente de um Estado Contratante no que diz respeito a um emprego exercido no outro Estado Contratante só é tributável no primeiro Estado se: a) o beneficiário está presente no outro Estado por um período ou períodos que não excedam no agregado 183 dias em qualquer período de doze meses, começando ou terminando, em ano fiscal em causa, e b) a remuneração é paga por ou em nome de um empregador que não seja residente do outro Estado, e c) a remuneração não é suportada por um estabelecimento permanente que o empregador tem no outro Estado. 3. Não obstante as disposições precedentes do presente Artigo, a remuneração recebida por um residente de um Estado Contratante em relação a um emprego, enquanto membro do complemento regular de um navio ou aeronave, que é exercida a bordo de um navio ou aeronave operado em tráfego internacional, que não a bordo de um navio ou aeronave operado unicamente no outro Estado Contratante, só podem ser tributados no primeiro Estado.

Com relação a tributação dos rendimentos de profissões dependentes, as convenções brasileiras, replicando tanto a convenção modelo da OCDE quanto da ONU, atribuem ao Estado em que a atividade é exercida o direito de tributar.[55]

Caso o Estado onde a atividade for exercida for diferente do Estado de residência do contribuinte, atendidos determinadas condições previstas nas convenções, ambos os Estados poderão tributar, cabendo ao Estado da residência eliminar a dupla tributação.

Essas regras são excepcionadas quando o empregado trabalhar em navios e aeronaves utilizados no tráfego internacional, sendo que a tributação ocorrerá no Estado

[55] A convenção Brasil-Coreia do Sul, divergindo das convenções modelo e de todas as outras convenções de que o Brasil é signatário, prevê o prazo de 182 dias no item "a" do parágrafo 2 do Artigo 15.

da sede ou direção efetiva da empresa estiver situada. Nas convenções com Chile, Filipinas, Finlândia e Peru, esta regra é alterada, cabendo ao Estado da residência do empregado a tributação pelos rendimentos de trabalho exercido em aeronaves ou navios utilizados no tráfego internacional.

Nas convenções com Dinamarca e Noruega também há uma exceção a essa tributação, quando o emprego é exercido em aeronave pertencente ou fretada pela *Scandinavian Airlines System*. Ainda com relação a convenção celebrada com a Noruega, há outra exceção ao trabalho em aeronaves brasileiras e norueguesas em geral. Nestes casos, o Estado da residência do beneficiário é responsável pela tributação.

Por fim, em razão da proximidade dos países, as convenções celebradas com Argentina, Chile, Peru e Venezuela, incluem qualquer *veículo* utilizado no tráfego internacional para fins de tributação, seja aeroviário, terrestre ou aquático.

3.16. Remuneração de membros de conselho de empresas

CM ONU/2017	CM OCDE/2017
ARTIGO 16 Remuneração de Diretores e Administradores de Alto Nível 1. Remuneração de diretores e outros pagamentos similares recebidos por um residente de um Estado Contratante na sua qualidade de membro do Conselho de Administração de uma sociedade residente no outro Estado Contratante podem ser tributados nesse outro Estado. 2. Salários, ordenados e outras remunerações similares recebidas por um residente de um Estado Contratante na sua qualidade de Administrador de Alto Nível de uma sociedade residente no outro Estado Contratante podem ser tributados nesse outro Estado.	ARTIGO 16 Remuneração de Diretores Remuneração de diretores e outros pagamentos similares recebidos por um residente de um Estado Contratante na sua qualidade de membro do Conselho de Administração de uma sociedade residente no outro Estado Contratante podem ser tributados nesse outro Estado.

O Artigo 16, parágrafo 1, tanto da convenção modelo OCDE quanto da ONU, é replicado em todas as convenções brasileiras. Este artigo prevê a tributação pelo Estado da residência da empresa que paga a remuneração dos conselheiros e diretores da empresa, independentemente de onde o serviço é realizado.

Oportuno frisar que a tributação prevista nesse Artigo se sobrepõe a tributação dos *rendimentos de emprego*, previsto no Artigo 15 das convenções modelos.

3.17. Rendimentos de artistas e desportistas

CM ONU/2017	CM OCDE/2017
ARTIGO 17 Artistas e Desportistas 1. Não obstante o disposto nos Artigos 14 e 15, os rendimentos recebidos por um residente de um Estado Contratante na qualidade de profissional de espetáculos, como um artista de teatro, cinema, rádio ou televisão, ou um músico, ou como um desportista, a partir de suas atividades pessoais exercidas nessa qualidade no outro Estado Contratante, podem ser tributados nesse outro Estado. 2. Se os rendimentos relativos as atividades pessoais exercidas por um profissional de espetáculos ou desportista agindo como tal resulta não para o profissional ou desportista, mas para outra pessoa, esse rendimento pode, não obstante o disposto nos Artigos 7, 14 e 15, ser tributado no Estado Contratante em que as atividades do profissional ou desportista são exercidas.	ARTIGO 17 Artistas e Desportistas 1. Não obstante o disposto no Artigo 15, os rendimentos recebidos por um residente de um Estado Contratante na qualidade de profissional de espetáculos, como um artista de teatro, cinema, rádio ou televisão, ou um músico, ou como um desportista, a partir de suas atividades pessoais exercidas nessa qualidade no outro Estado Contratante, podem ser tributados nesse outro Estado. 2. Se os rendimentos relativos as atividades pessoais exercidas por um profissional de espetáculos ou desportista agindo como tal resulta não para o profissional ou desportista, mas para outra pessoa, esse rendimento pode, não obstante o disposto no Artigo 15, ser tributado no Estado Contratante em que as atividades do profissional ou desportista são exercidas.

A convenção modelo da ONU de 1980 nasceu com a redação de seu Artigo 17 praticamente idêntico a convenção modelo da OCDE de 1977. Desde então, houve mínima alteração a esta norma, como, por exemplo, a substituição em inglês da palavra *sporstsmen* para *sportsperson*, para fins de adaptar a regra a igualdade de gênero. No Brasil, como já era utilizada a palavra *atleta* (sem gênero) para traduzir *sportsmen*, não houve alteração nas convenções.

Registre-se que na redação da convenção modelo da OCDE de 1963 constava apenas a redação do parágrafo 1 do Artigo 17. Com isso, os artistas e atletas só poderiam ser tributados pelo Estado onde a atividade era exercida se a contratação e desenvolvimento da performance fossem realizadas pessoalmente pelos próprios artistas e atletas.

Contudo, não é incomum nessas atividades ocorrer a interposição de outras pessoas, físicas ou jurídicas, que podem ou não estar estabelecida em um dos Estados contratantes. Nestas situações, a redação prevista no Artigo 17, parágrafo 1, da convenção modelo OCDE de 1963 era insuficiente para permitir a tributação dos rendimentos, o que permitia a utilização de acordos de tributação para praticar abusos de elisão e evasão fiscais.

Dessa forma, a partir da revisão da convenção modelo da OCDE de 1977 foi inserido o parágrafo 2 ao Artigo 17. O referido parágrafo surgiu para conter abusos na utilização de acordos de dupla tributação, pois evita que um artista ou atleta, se utilizando de uma terceira pessoa, física ou jurídica, deixe de recolher impostos em um ou ambos os Estados contratantes.

As convenções celebradas com Argentina, França, Japão e Luxemburgo são acordos que não possuem a previsão da redação do parágrafo 2 das convenções modelos. Destaca-se que a convenção com Luxemburgo foi celebrada em 1979, logo, já era de

conhecimento dos países a "nova" redação do Artigo 17 da convenção modelo OCDE de 1977. Mais curioso é a situação da convenção Brasil-Argentina, originalmente aprovada pelo Brasil em 1981 e, posteriormente, emendada no ano de 2018. Em todos estes casos, se um artista ou atleta, contratado por interposta pessoa, física ou jurídica, desenvolva sua atividade em determinado Estado Contratante, não deverá ser aplicada a regra de tributação prevista no Artigo 17.

As demais convenções brasileiras possuem em sua redação o citado parágrafo 2. Alguns destes acordos, ainda, preveem regras específicas para isentar ou alterar o local de tributação[56], quando os recursos utilizados para contratar o artista ou atleta advém de fundos públicos ou, também, quando os Governos dos Estados contratantes têm interesse em desenvolver um intercâmbio cultural entre os países.

3.18. Pensões

CM ONU/2017	CM OCDE/2017
ARTIGO 18 Pensões e Pagamentos da Seguridade Social Artigo 18 (Alternativa A) 1. Sem prejuízo do disposto no parágrafo 2 do artigo 19, as pensões e outras remunerações similares pagas a um residente de um Estado Contratante em consequência de um emprego anterior só é tributável nesse Estado. 2. Não obstante as provisões do parágrafo 1, pensões e outras remunerações pagas por um esquema público que é parte do sistema de seguridade social do Estado Contratante ou subdivisão política ou uma autoridade local disso, devem ser tributados somente nesse Estado. Artigo 18 (Alternativa B) 1. Sem prejuízo do disposto no parágrafo 2 do artigo 19, as pensões e outras remunerações similares pagas a um residente de um Estado Contratante em consequência de um emprego anterior só é tributável nesse Estado. 2. Contudo, tal pensão ou outra remuneração similar também pode ser tributada no outro Estado Contratante se o pagamento é feito por um residente daquele Estado ou um estabelecimento permanente nele situado. 3. Não obstante as provisões dos parágrafos 1 e 2, pensões e outras remunerações pagas por um esquema público que é parte do sistema de seguridade social do Estado Contratante ou subdivisão política ou uma autoridade local disso, devem ser tributados somente nesse Estado.	ARTIGO 18 Pensões Sem prejuízo do disposto no parágrafo 2 do artigo 19, as pensões e outras remunerações similares pagas a um residente de um Estado Contratante em consequência de um emprego anterior só é tributável nesse Estado.

[56] As convenções com China e Hungria preveem a isenção de tributação quando a contratação de artistas e atletas fazem parte de projeto de intercâmbio cultural desenvolvido pelos Governos dos Estados Contratantes. As convenções com Eslováquia, República Tcheca, Filipinas, Índia e Trinidad e Tobago, preveem a isenção da tributação quando a contratação de artista e atletas são realizadas por meio de recursos de fundos públicos. As convenções com Israel e Venezuela estipulam que o Estado da residência do artista ou atleta tem o direito de tributar. A convenção com Portugal prevê que é o Estado da fonte o responsável pela tributação. Por fim, a convenção com Turquia determina que tanto o Estado da fonte quanto o Estado de residência do atleta ou artista possuem o direito de tributar os rendimentos decorrentes de atividades artísticas ou desportistas.

Acerca do pagamento das pensões e outras remunerações similares, as convenções modelos possuem significativa diferença. Enquanto a convenção modelo da OCDE permite a tributação apenas pelo Estado da residência do beneficiário, o modelo ONU, desde sua primeira edição em 1980, estabelece que tanto o Estado da residência do beneficiário (parágrafo 1) quanto o Estado da fonte do benefício (parágrafos 1 e 2 – alternativas A e B) possuem o direito de tributar os rendimentos.

Sobre esse assunto, as convenções brasileiras possuem basicamente três regras de tributação: tributação exclusiva pelo Estado da fonte do benefício; tributação por ambos os Estados Contratantes (com ou sem limitação dos rendimentos); tributação exclusiva do Estado da residência do beneficiário.

No modelo de tributação exclusiva do Estado da fonte, enquadram-se as convenções com África do Sul, Argentina, Áustria, Chile, Dinamarca, Equador, Filipinas, Noruega e Peru.

No modelo de tributação em ambos os Estados Contratantes, seguindo a convenção modelo da ONU, encontram-se as convenções com Bélgica, Canadá, China, Coréia do Sul, Eslováquia, Espanha, Finlândia, Hungria, Índia, Israel, Itália, Luxemburgo México, Países Baixos, Portugal, República Tcheca, Rússia, Trinidad e Tobago, Turquia, Ucrânia e Venezuela. Todavia, em algumas destas convenções, há previsão de um poder primário de tributar atribuído ao Estado da fonte do rendimento, sempre que o montante bruto recebido exceda, durante o ano fiscal, determinada soma em dinheiro, por exemplo nas convenções com Canadá ($4.000 dólares canadenses), Coréia do Sul ($3.000 dólares americanos), Eslováquia ($3.000 dólares americanos), Espanha ($3.000 dólares americanos), Hungria ($3.000 dólares americanos), Itália ($5.000 dólares americanos), Países Baixos ($5.000 dólares americanos), Luxemburgo ($ 3.000 dólares americanos) e Suécia ($4.000 dólares americanos).

Por fim, no modelo de tributação do Estado da residência, em conformidade com a convenção modelo da OCDE, identifica-se as convenções com França e Japão.

3.19. Rendimentos de serviços governamentais

CM ONU/2017	CM OCDE/2017
ARTIGO 19 Funções públicas 1. a) Salários, ordenados e outras remunerações similares pagas por um Estado Contratante ou uma subdivisão política ou uma autoridade local para um indivíduo em consequência a serviços prestados a esse Estado ou subdivisão ou autoridade só são tributáveis nesse Estado. b) Todavia, tais salários, ordenados e outras remunerações similares são tributáveis apenas no outro Estado Contratante se os serviços forem prestados nesse Estado e o indivíduo é um residente desse Estado que: i) seja nacional desse Estado; ou ii) não se tornar residente desse Estado unicamente para efeitos de prestação dos serviços. 2. a) Não obstante o disposto no parágrafo 1, as pensões e outras remunerações similares pagas por, ou por fundos criados por, um Estado Contratante ou uma subdivisão política ou uma autoridade local para um indivíduo em consequência de serviços prestados a esse Estado ou subdivisão ou autoridade só são tributáveis nesse Estado. b) Todavia, essas pensões e outras remunerações similares são tributáveis somente no outro Estado Contratante se o indivíduo for residente ou nacional desse Estado. 3. O disposto nos Artigos 15, 16, 17 e 18 aplica-se aos salários, ordenados, pensões e outras remunerações similares em relação aos serviços prestados em conexão com um negócio exercido por um Estado Contratante ou por uma subdivisão política ou uma autoridade local da mesma.	ARTIGO 19 Funções públicas 1. a) Salários, ordenados e outras remunerações similares pagas por um Estado Contratante ou uma subdivisão política ou uma autoridade local para um indivíduo em consequência a serviços prestados a esse Estado ou subdivisão ou autoridade só são tributáveis nesse Estado. b) Todavia, tais salários, ordenados e outras remunerações similares são tributáveis apenas no outro Estado Contratante se os serviços forem prestados nesse Estado e o indivíduo é um residente desse Estado que: i) seja nacional desse Estado; ou ii) não se tornar residente desse Estado unicamente para efeitos de prestação dos serviços. 2. a) Não obstante o disposto no parágrafo 1, as pensões e outras remunerações similares pagas por, ou por fundos criados por, um Estado Contratante ou uma subdivisão política ou uma autoridade local para um indivíduo em consequência de serviços prestados a esse Estado ou subdivisão ou autoridade só são tributáveis nesse Estado. b) Todavia, essas pensões e outras remunerações similares são tributáveis somente no outro Estado Contratante se o indivíduo for residente ou nacional desse Estado. 3. O disposto nos Artigos 15, 16, 17 e 18 aplica-se aos salários, ordenados, pensões e outras remunerações similares em relação aos serviços prestados em conexão com um negócio exercido por um Estado Contratante ou por uma subdivisão política ou uma autoridade local da mesma.

O Artigo 19 das convenções modelos da OCDE e ONU trata da tributação de rendimentos pagos por um Estado contratante ou sua subdivisão política em decorrência de serviços que lhe tenham sido prestados. Em regra, a tributação se dará pelo Estado que contratou os serviços, independentemente de onde eles tenham sido prestados, com exceção às regras do parágrafo 1, item “b”, e parágrafos 2 e 3.

Todas as convenções brasileiras, com pequenas variações de redação, possuem a previsão de tributação do Artigo 19 das convenções modelos. A convenção que apresenta a maior diferença é a celebrada com o Japão, em que não há as ressalvas das regras do parágrafo 1, item “b”, e parágrafos 2 e 3.

3.20. Estudantes, Professores e Pesquisadores

CM ONU/2017	CM OCDE/2017
ARTIGO 20 Estudantes Pagamentos que um estudante ou aprendiz de empresa que é, ou foi, em período imediatamente anterior de permanência no Estado Contratante, residente do outro Estado Contratante e que a permanência no primeiro Estado mencionado seja unicamente para efeitos da sua educação ou formação, recebe para efeitos da sua manutenção, educação ou formação, não são tributadas nesse Estado, desde que esses pagamentos resultem de fontes fora desse Estado.	ARTIGO 20 Estudantes Pagamentos que um estudante ou aprendiz de empresa que é, ou foi, em período imediatamente anterior de permanência no Estado Contratante, residente do outro Estado Contratante e que a permanência no primeiro Estado mencionado seja unicamente para efeitos da sua educação ou formação, recebe para efeitos da sua manutenção, educação ou formação, não são tributadas nesse Estado, desde que esses pagamentos resultem de fontes fora desse Estado.

O Artigo 20 das convenções modelos OCDE e ONU trata da tributação de rendimentos recebidos por estudantes ou aprendizes para sua formação. Nesses casos, a tributação caberá ao Estado da fonte, desde que os rendimentos não provenham do Estado da residência.

Destaca-se que nas convenções modelos a regra é destinada exclusivamente aos estudantes ou aprendizes, todavia, não incluem professores e pesquisadores em sua redação. Por outro lado, oportuno mencionar que a grande maioria das convenções brasileiras possuem regra similar de tributação destinada aos professores e pesquisadores.

As convenções com a Áustria, Canadá, Chile, Finlândia e Peru, são as únicas convenções brasileiras que seguem as convenções modelos OCDE e ONU, sem incluir tipo especial de tributação para os rendimentos de professores e pesquisadores. Na convenção com a Argentina, por exemplo, o Artigo 20 disciplina a tributação dos rendimentos dos *"professores, pesquisadores, estudantes e aprendizes"*. Todas as demais convenções em vigor possuem Artigo específico para a tributação do rendimento de professores e pesquisadores de um Estado Contratante que foram desenvolver seus trabalhos no outro Estado Contratante. Todas as convenções brasileiras que possuem regra de tributação especial para professores e pesquisadores limitam o benefício a prazo não superior a dois anos, ou seja, a isenção de tributação no Estado de residência passará a ser permitida após esse prazo.

Com relação a tributação dos estudantes e dos aprendizes, a maioria das convenções brasileiras também estabelecem limites para usufruir do benefício, seja pela limitação do tempo ou do valor do rendimento. Há convenções que estabelecem apenas limite de tempo, como as convenções com Itália (02 anos), Hungria (02 anos), França (02 anos), Filipinas (02 anos), Equador (02 anos), Coréia do Sul (02 anos), Argentina (03 anos), Espanha (04 anos) e Itália (05 anos). Outras convenções estabelecem, além do limite temporal, limite de valores a serem recebidos pelos estudantes ou aprendizes no ano fiscal, como as convenções com Portugal (01 ano + US$ 1.000), Suécia (02 anos + US$ 2.000), Japão (03 anos + US$ 1.000), Dinamarca (03 anos + US$ 4.000), Bélgica (03 anos + $ 100.000 francos belgas) e Noruega (05 anos + US$ 3.000).

3.21. Outros rendimentos

CM ONU/2017	CM OCDE/2017
ARTIGO 21 Outros rendimentos 1. Itens de rendimentos de um residente de um Estado Contratante, de onde quer que provenham, não tratados nos artigos precedentes da presente Convenção devem ser tributados somente nesse Estado. 2. O disposto no parágrafo 1 não é aplicável aos rendimentos, com exceção dos rendimentos de bens imóveis tal como definidos no parágrafo 2 do Artigo 6, se o beneficiário desse rendimento, sendo residente de um Estado Contratante, exerce a sua atividade no outro Estado Contratante através de um estabelecimento permanente nele situado, ou desenvolva naquele outro Estado serviços profissionais independentes de uma base fixa nele situado, e o direito ou propriedade em relação ao qual o rendimento é pago está efetivamente ligado a tal estabelecimento permanente ou base fixa. Nesse caso, são aplicáveis as disposições dos Artigos 7 e 14, conforme o caso. 3. Não obstante as provisões dos parágrafos 1 e 2, itens de rendimento de um residente de um Estado Contratante não tratados nos Artigos precedentes desta Convenção e originados de um outro Estado Contratante podem ser tributados nesse outro Estado Contratante.	ARTIGO 21 Outros rendimentos 1. Itens de rendimentos de um residente de um Estado Contratante, de onde quer que provenham, não tratados nos artigos precedentes da presente Convenção devem ser tributados somente nesse Estado. 2. O disposto no parágrafo 1 não é aplicável aos rendimentos, com exceção dos rendimentos de bens imóveis tal como definidos no parágrafo 2 do Artigo 6, se o beneficiário desse rendimento, sendo residente de um Estado Contratante, exerce a sua atividade no outro Estado Contratante através de um estabelecimento permanente nele situado e o direito ou propriedade em relação ao qual o rendimento é pago está efetivamente ligado a tal estabelecimento permanente. Nesse caso, são aplicáveis as disposições do Artigo 7.

O Artigo 21 das convenções modelos OCDE e ONU trata da tributação (residual) de rendimentos não previstos em outros artigos da convenção. O parágrafo 1 dispõe que cabe ao Estado da residência do beneficiário o poder de tributar. Todavia, se o beneficiário exercer atividade no outro Estado Contratante através de um estabelecimento permanente ou base fixa, caberá a este outro Estado tributar os rendimentos[57].

A convenção modelo da ONU inclui, ainda, o parágrafo 3, o qual atribui ao Estado da fonte a possibilidade de tributar quaisquer outros rendimentos originados em seu território, quando não previstos nos parágrafos 1 e 2.

As convenções brasileiras celebradas com África do Sul, Portugal, Turquia, Ucrânia e Venezuela, utilizam-se da mesma redação da convenção modelo ONU. Já as convenções com a Áustria e Finlândia utilizam a convenção modelo OCDE (versão a partir de 1977).

Todavia, na grande maioria das convenções brasileiras não se adotam as regras de tributação das convenções modelos OCDE e ONU, utilizando-se de duas formas de tributar: (i) atribui o poder de tributação apenas ao Estado da fonte ou (ii) atribui o poder de tributar a ambos os Estados contratantes, cabendo ao Estado da residência eliminar a dupla tributação. No primeiro grupo se encontram as convenções com Argentina, Canadá, Chile, China, Coréia do Sul, Equador, Eslováquia, República Tcheca, Filipinas, Hungria, Índia, Israel, México, Noruega, Países Baixos, Peru e Rússia. No

[57] A redação do parágrafo 2 apareceu na convenção modelo da OCDE apenas a partir da revisão realizada em 1977. A convenção modelo de 1963 previa apenas a redação do parágrafo 1.

segundo grupo encontram-se as convenções com Bélgica, Dinamarca, Espanha, Itália, Japão, Luxemburgo, Suécia e Trinidad e Tobago.

Ressalta-se que na convenção Brasil-França não há previsão desta regra de tributação de outros rendimentos não previstos em artigos precedentes do acordo.

3.22. Capital

CM ONU/2017	CM OCDE/2017
ARTIGO 22 Capital 1. Capital representado por bens imóveis a que se refere o Artigo 6, pertencente a um residente de um Estado Contratante e situado no outro Estado Contratante, pode ser tributado nesse outro Estado. 2. Capital representado por bens móveis que fazem parte da propriedade de um estabelecimento permanente que uma empresa de um Estado Contratante tenha no outro Estado Contratante ou por bens móveis pertencentes a uma base fixa de um residente de um Estado Contratante no outro Estado Contratante com o objetivo de desenvolver atividades profissionais independentes podem ser tributados nesse outro Estado. 3. Capital de uma empresa de um Estado Contratante que opere navios ou aeronaves em tráfego internacional representado por tais navios ou aeronaves, e por bens móveis relativas ao funcionamento desses navios ou aeronaves, só podem ser tributados nesse Estado. 4. Todos os outros elementos de capital de um residente de um Estado Contratante devem ser tributados apenas nesse Estado.	ARTIGO 22 Capital 1. Capital representado por bens imóveis a que se refere o Artigo 6, pertencente a um residente de um Estado Contratante e situado no outro Estado Contratante, pode ser tributado nesse outro Estado. 2. Capital representado por bens móveis que fazem parte da propriedade de um estabelecimento permanente que uma empresa de um Estado Contratante tenha no outro Estado Contratante pode ser tributado nesse outro Estado. 3. Capital de uma empresa de um Estado Contratante que opere navios ou aeronaves em tráfego internacional representado por tais navios ou aeronaves, e por bens móveis relativas ao funcionamento desses navios ou aeronaves, só podem ser tributados nesse Estado. 4. Todos os outros elementos de capital de um residente de um Estado Contratante devem ser tributados apenas nesse Estado.

O Artigo 22 das convenções modelos OCDE e ONU prevê a regra da tributação das *fortunas*, portanto, não trata de outros elementos do capital (rendimentos ou ganhos) que são previstos em outros artigos da convenção. A Constituição Federal brasileira de 1988[58] estipula a possibilidade de o país instituir impostos sobre grandes fortunas, porém este poder nunca foi exercido pelo legislador.

A maioria das convenções brasileiras não prevê a regra de tributação prevista no Artigo 22 das convenções modelos, com exceção das convenções com Argentina, Áustria, Luxemburgo e Noruega, que possuem redação similar aos modelos.

3.23. Métodos para eliminar a dupla tributação

[58] Constituição Federal do Brasil (1988): "Art. 153. Compete à União instituir impostos sobre: (...) VII – grandes fortunas, nos termos de lei complementar."

CM ONU/2017	CM OCDE/2017
ARTIGO 23-A Método da Isenção 1. Se um residente de um Estado Contratante receber rendimentos ou possuir capital que podem ser tributados no outro Estado Contratante, em conformidade com as disposições desta Convenção (exceto na medida em que estas disposições permitam a tributação por aquele Estado somente porque os rendimentos são também rendimentos recebidos por um residente desse Estado ou porque o capital é também capital de propriedade de um residente desse Estado), o primeiro Estado mencionado, observando o disposto nos parágrafos 2 e 3, isenta tais rendimentos ou capital de tributação. 2. Se um residente de um Estado Contratante receber itens de rendimentos que podem ser tributados no outro Estado Contratante, em conformidade com o disposto nos Artigos 10, 11, 12 e 12-A, que podem ser tributados nesse outro Estado Contratante, o primeiro Estado mencionado deve autorizar como dedução do imposto sobre os rendimentos daquele residente um montante igual ao imposto pago nesse outro Estado. Todavia, essa dedução não deve exceder essa parte do imposto, como calculado antes da dedução que é dada, que é imputável a esses elementos de rendimentos recebidos desse outro Estado. 3. Se, de acordo com qualquer disposição da Convenção, os rendimentos recebidos ou capital próprio de um residente de um Estado Contratante está isento de imposto nesse Estado, este Estado pode, no entanto, no cálculo do montante do imposto sobre os rendimentos remanescentes ou capitais de tal residente, ter em conta o rendimento ou o capital isentos. 4. O disposto no parágrafo 1 não é aplicável aos rendimentos recebidos ou capitais de propriedade de um residente de um Estado Contratante em que o outro Estado Contratante aplique as disposições da presente Convenção para isentar esses rendimentos ou capitais de tributação ou aplique as disposições do parágrafo 2 do Artigos 10, 11, 12 ou 12-A para esse rendimento. Nesse último caso, o primeiro Estado mencionado deve permitir uma dedução d imposto de acordo com o parágrafo 2.	ARTIGO 23-A Método da Isenção 1. Se um residente de um Estado Contratante receber rendimentos ou possuir capital que podem ser tributados no outro Estado Contratante, em conformidade com as disposições desta Convenção (exceto na medida em que estas disposições permitam a tributação por aquele Estado somente porque os rendimentos são também rendimentos recebidos por um residente desse Estado ou porque o capital é também capital de propriedade de um residente desse Estado), o primeiro Estado mencionado, observando o disposto nos parágrafos 2 e 3, isenta tais rendimentos ou capital de tributação. 2. Se um residente de um Estado Contratante receber itens de rendimentos que podem ser tributados no outro Estado Contratante, em conformidade com o disposto nos Artigos 10 e 11 (exceto na medida em que estas disposições permitam a tributação por esse outro Estado somente porque os rendimentos são também rendimentos recebidos por um residente desse Estado), o primeiro Estado mencionado deve autorizar como dedução do imposto sobre os rendimentos daquele residente um montante igual ao imposto pago nesse outro Estado. Todavia, essa dedução não deve exceder essa parte do imposto, como calculado antes da dedução que é dada, que é imputável a esses elementos de rendimentos recebidos desse outro Estado. 3. Se, de acordo com qualquer disposição da Convenção, os rendimentos recebidos ou capital próprio de um residente de um Estado Contratante está isento de imposto nesse Estado, este Estado pode, no entanto, no cálculo do montante do imposto sobre os rendimentos remanescentes ou capitais de tal residente, ter em conta o rendimento ou o capital isentos. 4. O disposto no parágrafo 1 não é aplicável aos rendimentos recebidos ou capitais de propriedade de um residente de um Estado Contratante em que o outro Estado Contratante aplique as disposições da presente Convenção para isentar esses rendimentos ou capitais de tributação ou aplique as disposições do parágrafo 2 do Artigo 10 ou 11 para esse rendimento.
ARTIGO 23-B Método de crédito 1. Se um residente de um Estado Contratante receber rendimentos ou possuir capital que podem ser tributados no outro Estado Contratante, em conformidade com as disposições desta Convenção (exceto na medida em que estas disposições permitam a tributação por aquele Estado somente porque os rendimentos são também rendimentos recebidos por um residente desse Estado ou porque o capital é também capital de propriedade de um residente desse Estado), o primeiro Estado mencionado deve autorizar: a) como dedução do imposto sobre o rendimento desse residente, um montante igual ao imposto de renda pago nesse outro Estado; b) como dedução do imposto sobre o capital desse residente, um montante igual ao imposto sobre o capital pago nesse outro Estado. Essa dedução, em qualquer dos casos não deve, entretanto, exceder a parte do imposto sobre o rendimento ou capital, tal como calculado antes da dedução dada, que é atribuível, como pode ser, para o rendimento ou o capital que pode ser tributado nesse outro Estado. 2. Se, de acordo com qualquer disposição da Convenção, os rendimentos recebidos ou capital de propriedade de um residente de um Estado Contratante está isento de imposto nesse Estado, esse Estado pode, no entanto, no cálculo do montante do imposto sobre os rendimentos remanescentes ou capitais de tal residente, ter em conta o rendimento ou o capital isentos.	ARTIGO 23-B Método de crédito 1. Se um residente de um Estado Contratante receber rendimentos ou possuir capital que podem ser tributados no outro Estado Contratante, em conformidade com as disposições desta Convenção (exceto na medida em que estas disposições permitam a tributação por aquele Estado somente porque os rendimentos são também rendimentos recebidos por um residente desse Estado ou porque o capital é também capital de propriedade de um residente desse Estado), o primeiro Estado mencionado deve autorizar: a) como dedução do imposto sobre o rendimento desse residente, um montante igual ao imposto de renda pago nesse outro Estado; b) como dedução do imposto sobre o capital desse residente, um montante igual ao imposto sobre o capital pago nesse outro Estado. Essa dedução, em qualquer dos casos não deve, entretanto, exceder a parte do imposto sobre o rendimento ou capital, tal como calculado antes da dedução dada, que é atribuível, como pode ser, para o rendimento ou o capital que pode ser tributado nesse outro Estado. 2. Se, de acordo com qualquer disposição da Convenção, os rendimentos recebidos ou capital de propriedade de um residente de um Estado Contratante está isento de imposto nesse Estado, esse Estado pode, no entanto, no cálculo do montante do imposto sobre os rendimentos remanescentes ou capitais de tal residente, ter em conta o rendimento ou o capital isentos.

Com o objetivo de eliminar a dupla tributação, o Artigo 23 (A e B) das convenções modelos OCDE e ONU estipula os procedimentos que os Estados deverão

adotar para que o contribuinte seja efetivamente tributado em apenas um dos Estados. Ao mesmo tempo, esse artigo permite aos Estados contratantes, em determinadas situações, computar rendimentos isentos para efeitos de determinação da taxa aplicável ao restante dos rendimentos do contribuinte. Frise-se que este artigo trata apenas da eliminação da dupla tributação jurídica internacional, não se referindo à eliminação da dupla tributação econômica[59].

As convenções modelos indicam dois métodos para a eliminação da dupla tributação: método da isenção e o método de crédito. Em síntese, pelo método da isenção, o Estado da residência abdica de tributar o rendimento recebido no outro Estado contratante; já no método de crédito, o Estado da residência computa os rendimentos obtidos no outro Estado contratante para fins de cálculo do imposto devido em seu território, porém depois concede um crédito ao contribuinte do imposto pago no outro Estado contratante.

Todas as convenções brasileiras possuem artigo que trata de métodos a serem aplicados pelos Estados contratantes para eliminar a dupla tributação com a inclusão, ao menos, do método do crédito. Em determinadas situações há ainda a previsão da aplicação do método da isenção.[60]

3.24. Não-discriminação

[59] Segundo Maria Margarida Cordeiro Mesquita, em seu livro *As Convenções Sobre Dupla Tributação*, a dupla tributação jurídica internacional ocorreria em três situações: *"a) Ambos os Estados tributam a mesma pessoa, com fundamento na sua obrigação fiscal ilimitada; b) Uma dos Estados tributa com fundamento na residência do contribuinte e o outro com base na fonte dos rendimentos ou na situação do bem; c) Embora se trate de um não residente de qualquer dos Estados, ambos o tributam pelo rendimento obtido ou pelo capital possuído no seu território – v. a situação de um não residente que é tributado num dos Estados porque aí possui um estabelecimento estável e no outro Estado porque por intermédio do mesmo estabelecimento estável aí obtém rendimentos ou possui capital"*. (MESQUITA, Maria Margarida Cordeiro. *As Convenções sobre Dupla Tributação*, Centro de Estudos Fiscais, Lisboa, 1998).

[60] As convenções brasileiras que dispõem do método do crédito para eliminar a dupla tributação são as celebradas com África do Sul, Argentina, Chile, China, Coréia do Sul, Filipinas, Israel, Japão, México, Peru, Portugal, Rússia, Trinidad e Tobago, Turquia, Ucrânia e Venezuela. As convenções brasileiras que dispõem tanto do método do crédito quanto do método da isenção para eliminar a dupla tributação são as celebras com Áustria, Bélgica, Canadá, Dinamarca, Equador, Eslováquia, República Tcheca, Espanha, Finlândia, França, Hungria, Índia, Itália, Luxemburgo, Noruega, Países Baixos e Suécia.

CM ONU/2017	CM OCDE/2017
ARTIGO 24 Não-discriminação 1. Os nacionais de um Estado Contratante não estarão sujeitos no outro Estado Contratante a qualquer tributação ou exigência com ela conexa, diversa ou mais onerosa do que a tributação e as exigências com ela conexas às quais os nacionais desse outro Estado, nas mesmas circunstâncias, estiverem ou puderem estar sujeitos, em particular com relação à residência. A presente disposição, não obstante o disposto no Artigo 1, também se aplicam a pessoas que não sejam residentes de um ou de ambos os Estados Contratantes. 2. Os apátridas residentes de um Estado Contratante não estarão sujeitos em qualquer Estado Contratante a qualquer tributação ou exigências com ela conexa, diversa ou mais onerosa do que a tributação e as exigências com ela conexas às quais os nacionais desse outro Estado estão sujeitos, nas mesmas circunstâncias, em particular com respeito à residência. 3. A tributação de um estabelecimento permanente que uma empresa de um Estado Contratante tenha no outro Estado Contratante não deve ser menos favorável naquele Estado do que a tributação de empresas daquele Estado que tenha negócios com a mesma atividade. Esta disposição não deve ser interpretada como obrigando um Estado Contratante a conceder aos residentes do outro Estado Contratante quaisquer vantagens pessoais, benefícios e reduções para efeitos de tributação em função do status civil ou das responsabilidades familiares que concede aos seus próprios residentes. 4. Salvo se as disposições do parágrafo 1 do artigo 9, parágrafo 6 do artigo 11, no parágrafo 4 do artigo 12, ou parágrafo 4 do artigo 12-A, aplicam-se, juros, royalties, remuneração por serviços técnicos, e outros desembolsos pagos por uma empresa de um Estado Contratante a um residente do outro Estado Contratante deve, para efeitos de determinação dos lucros tributáveis dessa empresa, ser deduzido nas mesmas condições, como se tivessem sido pagos a um residente do primeiro Estado mencionado. Da mesma forma, quaisquer dívidas de uma empresa de um Estado Contratante a um residente do outro Estado Contratante deve, para efeitos de determinação do capital tributável da empresa, ser dedutível nas mesmas condições que se tivessem sido contratadas por um residente do primeiro Estado mencionado. 5. As empresas de um Estado Contratante, cujo capital seja total ou parcialmente detida ou controlada, direta ou indiretamente, por um ou mais residentes do outro Estado Contratante, não deve ser submetido no primeiro Estado mencionado a qualquer tributação ou de um requisito a ela conexo, que é diverso ou mais oneroso do que o tributação e os requisitos a ela conexos que outras empresas similares do primeiro Estado mencionado são ou podem ser submetidos. 6. Não obstante o disposto no artigo 2, as disposições do presente Artigo aplicam-se aos impostos de todos os tipos e descrições.	ARTIGO 24 Não-discriminação 1. Os nacionais de um Estado Contratante não estarão sujeitos no outro Estado Contratante a qualquer tributação ou exigência com ela conexa, diversa ou mais onerosa do que a tributação e as exigências com ela conexas às quais os nacionais desse outro Estado, nas mesmas circunstâncias, estiverem ou puderem estar sujeitos, em particular com relação à residência. A presente disposição, não obstante o disposto no Artigo 1, também se aplicam a pessoas que não sejam residentes de um ou de ambos os Estados Contratantes. 2. Os apátridas residentes de um Estado Contratante não estarão sujeitos em qualquer Estado Contratante a qualquer tributação ou exigências com ela conexa, diversa ou mais onerosa do que a tributação e as exigências com ela conexas às quais os nacionais desse outro Estado estão sujeitos, nas mesmas circunstâncias, em particular com respeito à residência. 3. A tributação de um estabelecimento permanente que uma empresa de um Estado Contratante tenha no outro Estado Contratante não deve ser menos favorável naquele Estado do que a tributação de empresas daquele Estado que tenha negócios com a mesma atividade. Esta disposição não deve ser interpretada como obrigando um Estado Contratante a conceder aos residentes do outro Estado Contratante quaisquer vantagens pessoais, benefícios e reduções para efeitos de tributação em função do status civil ou das responsabilidades familiares que concede aos seus próprios residentes. 4. Salvo se as disposições do parágrafo 1 do artigo 9, parágrafo 6 do artigo 11, ou no parágrafo 4 do artigo 12, aplicam-se, juros, royalties e outros desembolsos pagos por uma empresa de um Estado Contratante a um residente do outro Estado Contratante deve, para efeitos de determinação dos lucros tributáveis dessa empresa, ser deduzido nas mesmas condições, como se tivessem sido pagos a um residente do primeiro Estado mencionado. Da mesma forma, quaisquer dívidas de uma empresa de um Estado Contratante a um residente do outro Estado Contratante deve, para efeitos de determinação do capital tributável da empresa, ser dedutível nas mesmas condições que se tivessem sido contratadas por um residente do primeiro Estado mencionado. 5. As empresas de um Estado Contratante, cujo capital seja total ou parcialmente detida ou controlada, direta ou indiretamente, por um ou mais residentes do outro Estado Contratante, não deve ser submetido no primeiro Estado mencionado a qualquer tributação ou de um requisito a ela conexo, que é diverso ou mais oneroso do que o tributação e os requisitos a ela conexos que outras empresas similares do primeiro Estado mencionado são ou podem ser submetidos. 6. Não obstante o disposto no artigo 2, as disposições do presente Artigo aplicam-se aos impostos de todos os tipos e descrições.

O Artigo 24 das convenções modelos da OCDE[61] e ONU consagra o princípio do direito internacional da não discriminação aos contribuintes, independentemente de sua natureza ou designação. Em suma, a obediência a este princípio determina que os Estados contratantes não podem sujeitar estrangeiros, em situação idêntica a nacionais, "a nenhuma tributação ou obrigação com ela conexa mais gravosa" que os nacionais

[61] A partir da revisão de 1977, a convenção modelo OCDE passou a incluir disposição relativa a dedutibilidade dos juros, royalties e outras importâncias no âmbito do acordo de dupla tributação.

estariam obrigados. Todas as convenções brasileiras possuem dispositivo similar ao Artigo 24 das convenções modelos[62].

3.25. Procedimento de acordo mútuo

CM ONU/2017	CM OCDE/2017
ARTIGO 25 (Alternativa A) Procedimento de acordo mútuo 1. Se uma pessoa considerar que as ações de um ou ambos os Estados Contratantes resultem ou resultarão para ele em tributação em desacordo com as disposições desta Convenção, pode, independentemente das medidas previstas no direito interno destes Estados, apresentar o seu caso à autoridade competente do Estado Contratante de que é residente ou, se for o caso de aplicação do parágrafo 1 do Artigo 24, do Estado Contratante deque é nacional. O caso deve ser apresentado no prazo de três anos a partir da primeira notificação da ação resultante da tributação em desconformidade com as disposições da Convenção. 2. A autoridade competente deve esforçar-se, se a objeção lhe parecer ser justificada e se não for capaz de chegar a uma solução satisfatória, para resolver o caso por mútuo acordo com a autoridade competente do outro Estado Contratante, a fim de evitar a tributação que não esteja em conformidade com a Convenção. Qualquer acordo alcançado será implementado, não obstante qualquer tempo de limitação no direito interno dos Estados Contratantes. 3. As autoridades competentes dos Estados Contratantes esforçar-se-ão para resolver por mútuo acordo quaisquer dificuldades ou dúvidas resultantes da interpretação ou aplicação da Convenção. Eles também podem se consultar em conjunto para a eliminação de dupla tributação nos casos não previstos na Convenção. 4. As autoridades competentes dos Estados Contratantes devem se comunicar uma com as outras diretamente, incluindo através de uma Comissão conjunta constituída por si ou seus representantes, com o objetivo de chegar a um acordo no sentido dos parágrafos anteriores. As autoridades competentes, por meio de consultas, devem desenvolver procedimentos bilaterais apropriados, condições, métodos e técnicas para a implementação do procedimento de mútuo acordo previsto neste Artigo.	ARTIGO 25 Procedimento de acordo mútuo 1. Se uma pessoa considerar que as ações de um ou ambos os Estados Contratantes resultem ou resultarão para ele em tributação em desacordo com as disposições desta Convenção, pode, independentemente das medidas previstas no direito interno destes Estados, apresentar o seu caso à autoridade competente de qualquer Estado Contratante. O caso deve ser apresentado no prazo de três anos a partir da primeira notificação da ação resultante da tributação em desconformidade com as disposições da Convenção. 2. A autoridade competente deve esforçar-se, se a objeção lhe parecer ser justificada e se não for capaz de chegar a uma solução satisfatória, para resolver o caso por mútuo acordo com a autoridade competente do outro Estado Contratante, a fim de evitar a tributação que não esteja em conformidade com a Convenção. Qualquer acordo alcançado será implementado, não obstante qualquer tempo de limitação no direito interno dos Estados Contratantes. 3. As autoridades competentes dos Estados Contratantes esforçar-se-ão para resolver por mútuo acordo quaisquer dificuldades ou dúvidas resultantes da interpretação ou aplicação da Convenção. Eles também podem se consultar em conjunto para a eliminação de dupla tributação nos casos não previstos na Convenção. 4. As autoridades competentes dos Estados Contratantes devem se comunicar uma com as outras diretamente, incluindo através de uma Comissão conjunta constituída por si ou seus representantes, com o objetivo de chegar a um acordo no sentido dos parágrafos anteriores. 5. Onde, a) nos termos do parágrafo 1, uma pessoa apresentou um caso à autoridade competente de um Estado Contratante com base no fato de as ações de um ou de ambos os Estados Contratantes tenham resultado para essa pessoa em tributação em desacordo com as disposições da presente Convenção, e

[62] A maioria das convenções brasileiras utiliza como base para suas cláusulas de não discriminação o texto da convenção modelo OCDE de 1963: Argentina, Áustria, Canadá, Dinamarca, Equador, Eslováquia, República Tcheca, Espanha, Filipinas, Finlândia, França, Hungria, Índia, Itália, Japão, Luxemburgo, México, Noruega, Países Baixos e Suécia. As demais convenções já incorporam em seu texto a redação das convenções modelos OCDE (1977) e ONU, com a previsão de dedutibilidade dos juros, royalties e outras importâncias no âmbito do acordo de dupla tributação, são elas: África do Sul, Bélgica, Chile, China, Coréia do Sul, Israel, Peru, Portugal, Rússia, Trinidad e Tobago, Turquia, Ucrânia e Venezuela.

ARTIGO 25 (Alternativa B)
Procedimento de acordo mútuo
1. Se uma pessoa considerar que as ações de um ou ambos os Estados Contratantes resultem ou resultarão para ele em tributação em desacordo com as disposições desta Convenção, pode, independentemente das medidas previstas no direito interno destes Estados, apresentar o seu caso à autoridade competente do Estado Contratante de que é residente ou, se for o caso de aplicação do parágrafo 1 do Artigo 24, do Estado Contratante deque é nacional. O caso deve ser apresentado no prazo de três anos a partir da primeira notificação da ação resultante da tributação em desconformidade com as disposições da Convenção.
2. A autoridade competente deve esforçar-se, se a objeção lhe parecer ser justificada e se não for capaz de chegar a uma solução satisfatória, para resolver o caso por mútuo acordo com a autoridade competente do outro Estado Contratante, a fim de evitar a tributação que não esteja em conformidade com a Convenção. Qualquer acordo alcançado será implementado, não obstante qualquer tempo de limitação no direito interno dos Estados Contratantes.
3. As autoridades competentes dos Estados Contratantes esforçar-se-ão para resolver por mútuo acordo quaisquer dificuldades ou dúvidas resultantes da interpretação ou aplicação da Convenção. Eles também podem se consultar em conjunto para a eliminação de dupla tributação nos casos não previstos na Convenção.
4. As autoridades competentes dos Estados Contratantes devem se comunicar uma com as outras diretamente, incluindo através de uma Comissão conjunta constituída por si ou seus representantes, com o objetivo de chegar a um acordo no sentido dos parágrafos anteriores. As autoridades competentes, por meio de consultas, devem desenvolver procedimentos bilaterais apropriados, condições, métodos e técnicas para a implementação do procedimento de mútuo acordo previsto neste Artigo.
5. Onde,
a) nos termos do parágrafo 1, uma pessoa apresentou um caso à autoridade competente de um Estado Contratante com base no fato de as ações de um ou de ambos os Estados Contratantes tenham resultado para essa pessoa em tributação em desacordo com as disposições da presente Convenção, e
b) as autoridades competentes não conseguem chegar a acordo para resolver esse caso de acordo com o parágrafo 2 no prazo de três anos a contar da data em que todas as informações exigidas pelas autoridades competentes para julgar o caso foi fornecida a ambas as
autoridades competentes,
quaisquer questões não resolvidas resultantes do caso devem ser submetidas à arbitragem se a autoridade competente assim o solicitar. A pessoa que apresentar o caso deverá ser notificada da requisição. Estas questões não resolvidas não devem, no entanto, ser submetidas a arbitragem se uma decisão sobre estas questões já tiverem sido proferida por um Tribunal administrativo ou judicial de qualquer Estado. A decisão arbitral deverá ser vinculativa para ambos os Estados e deve ser implementada, não obstante qualquer limite de tempo previsto na legislação interna destes Estados, a não ser que ambas as autoridades competentes concordarem em uma solução diferente dentro de 06 meses após a decisão ter sido comunicada à elas ou a pessoa diretamente afetada pelo caso não aceitar o acordo mútuo que implementar a decisão arbitral. As autoridades competentes dos Estados Contratantes estabelecerão, de comum acordo, o modo de aplicação do presente parágrafo.

b) as autoridades competentes não conseguem chegar a acordo para resolver esse caso de acordo com o parágrafo 2 no prazo de dois anos a contar da data em que todas as informações exigidas pelas autoridades competentes para julgar o caso foi fornecida para ambas as autoridades competentes, quaisquer questões não resolvidas resultantes do caso devem ser submetidas à arbitragem se a pessoa assim o solicitar por escrito. Estas questões não resolvidas não devem, no entanto, ser submetidas a arbitragem se uma decisão sobre estas questões já tiverem sido proferida por um Tribunal administrativo ou judicial de qualquer Estado. A menos que uma pessoa diretamente afetada pelo caso não aceite o acordo mútuo que implemente a decisão arbitral, essa decisão é vinculativa para ambos os Estados Contratantes e deve ser implementada, não obstante quaisquer prazos na legislação nacional desses Estados. As autoridades competentes dos Estados Contratantes estabelecerão, de comum acordo, o modo de aplicação do presente parágrafo.

O Artigo 25 das convenções modelos OCDE e ONU estabelece o procedimento mútuo para solução de conflitos existentes em razão da divergência de aplicação das regras da convenção pelos Estados contratantes. A redação dos dispositivos

supracitados é a presente na revisão dos respectivos modelos ocorrida em 2017, tanto para a OCDE quanto para a ONU. Nas edições anteriores, não havia a previsão existente no parágrafo 5 (no caso da ONU, no Artigo 25 – alternativa B).

As convenções brasileiras, sem exceção, preveem o referido dispositivo, com redação similar as convenções modelos. Em alguns dos acordos, inclusive, com a possibilidade de os Estados contratantes formarem uma comissão para comunicação direta de seus representantes, como previsto na revisão das convenções modelos OCDE/1998 e ONU/2001. Neste ponto, portanto, possível observar que o país se encontra na vanguarda do direito fiscal internacional, com a finalidade de não apenas eliminar a dupla tributação jurídica internacional, mas também fornecer elementos aos Estados contratantes para combater a evasão e elisão fiscal.

3.26. Troca de informações

CM ONU/2017	CM OCDE/2017
ARTIGO 26 Troca de Informações 1. As autoridades competentes dos Estados Contratantes trocarão essas informações quando for previsivelmente relevante para a execução das disposições da presente Convenção ou à administração ou à execução das leis nacionais relativas a tributação de todos os tipos e as descrições impostas em nome dos Estados Contratantes, ou respectivas subdivisões políticas ou autoridades locais, na medida em que a tributação aqui exposta não seja contrária à Convenção. Em particular, informação deve ser trocada que seja útil aos Estados Contratantes em prevenir a elisão ou evasão de tais impostos. A troca de informações não é restringida pelos Artigos 1 e 2. 2. Quaisquer informações recebidas nos termos do parágrafo 1 por um Estado Contratante são tratadas como secretas da mesma forma que as informações obtidas ao abrigo das leis domésticas desse Estado e só serão divulgadas a pessoas ou autoridades (incluindo tribunais judiciais e administrativos) preocupados com a avaliação ou cobrança de, a execução ou repressão em relação à, a determinação de recursos em relação aos impostos a que se refere o parágrafo 1, ou a fiscalização destes. Tais pessoas ou autoridades devem utilizar as informações apenas para esses fins. Estas pessoas podem divulgar a informação em processo judicial público ou em decisões judiciais. Não obstante, as informações recebidas por um Estado Contratante podem ser utilizadas para outros fins quando essas informações podem ser usadas para outros fins de acordo com as leis de ambos os Estados e a autoridade competente do Estado fornecedor autorizar essa utilização. 3. Em nenhum caso as disposições dos parágrafos 1 e 2 devem ser interpretadas para impor a um Estado Contratante a obrigação: a) realizar medidas administrativas em desacordo com as leis e práticas administrativas desse ou do outro Estado Contratante; b) fornecer informações que não sejam obtidas sob as leis ou no normal curso da administração desse ou do outro Estado Contratante;	ARTIGO 26 Troca de Informações 1. As autoridades competentes dos Estados Contratantes trocarão essas informações quando for previsivelmente relevante para a execução das disposições da presente Convenção ou à administração ou à execução das leis nacionais relativas a tributação de todos os tipos e as descrições impostas em nome dos Estados Contratantes, ou respectivas subdivisões políticas ou autoridades locais, na medida em que a tributação aqui exposta não seja contrária à Convenção. A troca de informações não é restringida pelos Artigos 1 e 2. 2. Quaisquer informações recebidas nos termos do parágrafo 1 por um Estado Contratante são tratadas como secretas da mesma forma que as informações obtidas ao abrigo das leis domésticas desse Estado e só serão divulgadas a pessoas ou autoridades (incluindo tribunais judiciais e administrativos) preocupados com a avaliação ou cobrança de, a execução ou repressão em relação à, a determinação de recursos em relação aos impostos a que se refere o parágrafo 1, ou a fiscalização destes. Tais pessoas ou autoridades devem utilizar as informações apenas para esses fins. Estas pessoas podem divulgar a informação em processo judicial público ou em decisões judiciais. Não obstante, as informações recebidas por um Estado Contratante podem ser utilizadas para outros fins quando essas informações podem ser usadas para outros fins de acordo com as leis de ambos os Estados e a autoridade competente do Estado fornecedor autorizar essa utilização. 3. Em nenhum caso as disposições dos parágrafos 1 e 2 devem ser interpretadas para impor a um Estado Contratante a obrigação: a) realizar medidas administrativas em desacordo com as leis e práticas administrativas desse ou do outro Estado Contratante; b) fornecer informações que não sejam obtidas sob as leis ou no normal curso da administração desse ou do outro Estado Contratante;

c) fornecer informações que revelem qualquer segredo comercial, industrial, de negócio ou profissional ou de um processo comercial ou de informação, cuja divulgação seria contrária à ordem pública.
4. Se as informações forem solicitadas por um Estado Contratante em conformidade com o presente Artigo, o outro Estado Contratante utilizará as suas medidas de recolha de informações para obter as informações solicitadas, embora esse outro Estado possa não necessitar de tais informações para sua própria tributação. A obrigação contida anteriormente é sujeita as limitações do parágrafo 3, mas em nenhum caso tais limitações serão interpretadas como forma de autorizar um Estado Contratante a recusar a fornecer informações unicamente porque não tem interesse interno em tais informações.
5. Em nenhum caso, as disposições do parágrafo 3 devem ser interpretadas para permitir a um Estado Contratante a recusar a fornecer informações unicamente porque a informação é detida por um Banco, outra instituição financeira, candidato ou pessoa que atue numa agência ou instituição fiduciária ou porque se relaciona com interesses de propriedade em uma pessoa.
6. As autoridades competentes devem, através de consultas, desenvolver métodos e técnicas apropriados referentes as matérias em relação as quais a troca de informações prevista no parágrafo 1 será feita.

c) fornecer informações que revelem qualquer segredo comercial, industrial, de negócio ou profissional ou de um processo comercial ou de informação, cuja divulgação seria contrária à ordem pública.
4. Se as informações forem solicitadas por um Estado Contratante em conformidade com o presente Artigo, o outro Estado Contratante utilizará as suas medidas de recolha de informações para obter as informações solicitadas, embora esse outro Estado possa não necessitar de tais informações para sua própria tributação. A obrigação contida anteriormente é sujeita as limitações do parágrafo 3, mas em nenhum caso tais limitações serão interpretadas como forma de autorizar um Estado Contratante a recusar a fornecer informações unicamente porque não tem interesse interno em tais informações.
5. Em nenhum caso, as disposições do parágrafo 3 devem ser interpretadas para permitir a um Estado Contratante a recusar a fornecer informações unicamente porque a informação é detida por um Banco, outra instituição financeira, candidato ou pessoa que atue numa agência ou instituição fiduciária ou porque se relaciona com interesses de propriedade em uma pessoa.

O Artigo 26 das convenções modelos OCDE e ONU trata do regime de troca de informações entre os Estados contratantes com o objetivo de fiscalizar a aplicação das regras das convenções e evitar a dupla tributação.

Inicialmente, em especial na convenção modelo OCDE de 1963, a redação desse artigo previa apenas a modalidade de troca de informações a pedido dos Estados contratantes e visava assegurar a aplicação da convenção. Com a evolução das relações comerciais internacionais, tanto a convenção modelo OCDE (revisão de 2005) quanto o modelo da ONU (revisão de 2017) tiveram significativas alterações, com a finalidade de alargar a forma de cooperação entre os Estados, permitindo, por exemplo, a troca de informações para que um Estado possa aplicar sua legislação nacional, independentemente da aplicação da convenção, ou, ainda, ampliando as modalidades de troca de informações, além da usual troca pedido, também a automática e a espontânea. As convenções modelos da ONU e OCDE são muito semelhantes, embora a primeira inclua expressamente referência à prevenção da fraude e da evasão fiscal.

Oportuno destacar que a aplicação do Artigo 26 das convenções modelos não exclui a obrigação dos Estados contratantes assumida em outros acordos internacionais sobre assistência mútua em matéria fiscal[63].

A troca de informações pode ocorrer, em síntese, de três formas: troca a pedido, troca automática e troca espontânea. A troca a pedido ocorre quando um Estado

[63] O Brasil é signatário, por exemplo, da Convenção Multilateral sobre Assistência Mútua em Matéria Fiscal, promulgada pelo Decreto nº 8.842, de 29 de agosto de 2016.

contratante solicita ao outro Estado contratante informações sobre determinado contribuinte. A troca automática é realizada, como o próprio nome deixa claro, de forma automática e periódica, sem a necessidade de um Estado contratante a requisitar. A troca espontânea é efetuada quando um Estado contratante, identificando operações suspeitas de serem tributáveis de um determinado contribuinte do outro Estado contratante, encaminha a esse outro Estado as informações para sua análise.

Todas as convenções brasileiras possuem dispositivo sobre a troca de informações, adotando como regra geral redação similar as convenções modelos OCDE/1963 e ONU/1980, exceção feita as convenções com Argentina, Chile, Índia, Peru, Portugal, Turquia e Venezuela, todas assinadas ou alteradas neste século XXI, as quais já incorporam em sua redação conteúdo semelhante, mesmo que pré-existente, as convenções modelos OCDE de 2005 e ONU de 2017.

3.27. Assistência na cobrança de impostos

CM ONU/2017	CM OCDE/2017
ARTIGO 27 Assistência na cobrança de impostos 1. Os Estados Contratantes devem prestar assistência mútua na cobrança de créditos fiscais. Esta assistência não é restringida pelos Artigos 1 e 2. As autoridades competentes dos Estados Contratantes podem, de comum acordo, estabelecer o modo de aplicação do presente Artigo. 2. O termo "crédito fiscal", utilizado no presente Artigo, significa um montante devido a título de impostos de todos os tipos e à descrição imposta em nome do Estado Contratante ou das suas subdivisões políticas ou autoridades locais, na medida em que a tributação aqui tratada não é contrária à presente Convenção ou a qualquer outro instrumento a que os Estados Contratantes são partes, bem como os juros, as sanções administrativas e os custos de cobrança ou conservação relacionada a tal quantia. 3. Quando um crédito fiscal de um Estado Contratante for executável ao abrigo das leis daquele Estado e é devida por uma pessoa que, nesse momento, não pode, sob as leis desse Estado, impedir sua cobrança, esse crédito fiscal deve, a pedido da autoridade competente desse Estado, ser aceite para efeitos de cobrança pela autoridade do outro Estado Contratante. Esse crédito fiscal deve ser cobrado por esse outro Estado em conformidade com as disposições da sua legislação aplicável a execução e cobrança de seus próprios impostos como se o crédito fiscal fosse um crédito fiscal daquele outro Estado.	ARTIGO 27 Assistência na cobrança de impostos 1. Os Estados Contratantes devem prestar assistência mútua na cobrança de créditos fiscais. Esta assistência não é restringida pelos Artigos 1 e 2. As autoridades competentes dos Estados Contratantes podem, de comum acordo, estabelecer o modo de aplicação do presente Artigo. 2. O termo "crédito fiscal", utilizado no presente Artigo, significa um montante devido a título de impostos de todos os tipos e à descrição imposta em nome do Estado Contratante ou das suas subdivisões políticas ou autoridades locais, na medida em que a tributação aqui tratada não é contrária à presente Convenção ou a qualquer outro instrumento a que os Estados Contratantes são partes, bem como os juros, as sanções administrativas e os custos de cobrança ou conservação relacionada a tal quantia. 3. Quando um crédito fiscal de um Estado Contratante for executável ao abrigo das leis daquele Estado e é devida por uma pessoa que, nesse momento, não pode, sob as leis desse Estado, impedir sua cobrança, esse crédito fiscal deve, a pedido da autoridade competente desse Estado, ser aceite para efeitos de cobrança pela autoridade do outro Estado Contratante. Esse crédito fiscal deve ser cobrado por esse outro Estado em conformidade com as disposições da sua legislação aplicável a execução e cobrança de seus próprios impostos como se o crédito fiscal fosse um crédito fiscal daquele outro Estado.

4. Quando um crédito fiscal de um Estado Contratante for um pedido em relação ao qual aquele Estado pode, nos termos da sua lei, tomar medidas de conservação com vista a assegurar o recolhimento de receitas, o crédito fiscal deve, a pedido da autoridade competente desse Estado, ser aceite para efeitos de tomar medidas de conservação pela autoridade competente do outro Estado Contratante. Esse outro Estado tomará medidas de conservação relativamente a esse crédito fiscal em conformidade com as disposições de sua própria legislação como se o crédito fiscal fosse um crédito fiscal daquele outro Estado mesmo que, no momento em que essas medidas forem aplicadas, o crédito fiscal não é executável no primeiro Estado mencionado ou é devida por uma pessoa que tem o direito de impedir a sua recolha.
5. Não obstante o disposto nos parágrafos 3 e 4, um crédito fiscal aceito por um Estado Contratante para efeitos dos parágrafos 3 ou 4 não deve, nesse Estado, ser sujeito aos prazos ou concedidos qualquer prioridade aplicável a um crédito fiscal sob as leis desse Estado em razão de sua natureza como tal. Além disso, o crédito fiscal aceito por um Estado Contratante para efeitos dos parágrafos 3 ou 4 não deve, nesse Estado, ter qualquer prioridade aplicável a esse crédito fiscal ao abrigo das leis do outro Estado Contratante.
6. Procedimentos relativos à existência, validade ou montante de um crédito fiscal de um Estado Contratante não serão intentadas perante os tribunais administrativos e/ou judiciais do outro Estado Contratante.
7. Sempre que, a qualquer momento, após a solicitação ter sido feita por um Estado Contratante sob os parágrafos 3 ou 4, e antes de o outro Estado Contratante ter recolhido e remitido o relevante crédito fiscal para o primeiro Estado mencionado, o relevante crédito fiscal deixa de ser:
a) no caso de um pedido ao abrigo do parágrafo 3, um crédito fiscal do primeiro Estado mencionado que é executada sob as leis desse Estado e é devida por uma pessoa que, nesse momento, não pode, sob as leis desse Estado, impedir a sua cobrança, ou
b) no caso de um pedido nos termos do parágrafo 4, um crédito fiscal do primeiro Estado mencionado em relação ao qual esse Estado pode, nos termos de sua legislação, tomar medidas de conservação com vista a assegurar a sua recolha a autoridade competente do primeiro Estado mencionado notificará prontamente a autoridade competente do outro estado desse fato e, por opção do outro Estado, o primeiro Estado mencionado deve suspender ou retirar o seu pedido.
8. Em nenhum caso, as disposições do presente Artigo devem ser interpretadas de modo a impor a um Estado Contratante a obrigação:
a) realizar medidas administrativas em desacordo com as leis e prática administrativa desse ou do outro Estado Contratante;
b) realizar medidas que sejam contrárias à ordem pública;
c) prestar assistência se o outro Estado Contratante não tiver adotado todas as medidas razoáveis de cobrança ou conservação, conforme o caso, disponível nas suas leis ou práticas administrativas;
d) prestar assistência nos casos em que o encargo administrativo para esse Estado é claramente desproporcional ao benefício a ser recebido pelo outro Estado Contratante.

4. Quando um crédito fiscal de um Estado Contratante for um pedido em relação ao qual aquele Estado pode, nos termos da sua lei, tomar medidas de conservação com vista a assegurar o recolhimento de receitas, o crédito fiscal deve, a pedido da autoridade competente desse Estado, ser aceite para efeitos de tomar medidas de conservação pela autoridade competente do outro Estado Contratante. Esse outro Estado tomará medidas de conservação relativamente a esse crédito fiscal em conformidade com as disposições de sua própria legislação como se o crédito fiscal fosse um crédito fiscal daquele outro Estado mesmo que, no momento em que essas medidas forem aplicadas, o crédito fiscal não é executável no primeiro Estado mencionado ou é devida por uma pessoa que tem o direito de impedir a sua recolha.
5. Não obstante o disposto nos parágrafos 3 e 4, um crédito fiscal aceito por um Estado Contratante para efeitos dos parágrafos 3 ou 4 não deve, nesse Estado, ser sujeito aos prazos ou concedidos qualquer prioridade aplicável a um crédito fiscal sob as leis desse Estado em razão de sua natureza como tal. Além disso, o crédito fiscal aceito por um Estado Contratante para efeitos dos parágrafos 3 ou 4 não deve, nesse Estado, ter qualquer prioridade aplicável a esse crédito fiscal ao abrigo das leis do outro Estado Contratante.
6. Procedimentos relativos à existência, validade ou montante de um crédito fiscal de um Estado Contratante não serão intentadas perante os tribunais administrativos e/ou judiciais do outro Estado Contratante.
7. Sempre que, a qualquer momento, após a solicitação ter sido feita por um Estado Contratante sob os parágrafos 3 ou 4, e antes de o outro Estado Contratante ter recolhido e remitido o relevante crédito fiscal para o primeiro Estado mencionado, o relevante crédito fiscal deixa de ser:
a) no caso de um pedido ao abrigo do parágrafo 3, um crédito fiscal do primeiro Estado mencionado que é executada sob as leis desse Estado e é devida por uma pessoa que, nesse momento, não pode, sob as leis desse Estado, impedir a sua cobrança, ou
b) no caso de um pedido nos termos do parágrafo 4, um crédito fiscal do primeiro Estado mencionado em relação ao qual esse Estado pode, nos termos de sua legislação, tomar medidas de conservação com vista a assegurar a sua recolha a autoridade competente do primeiro Estado mencionado notificará prontamente a autoridade competente do outro estado desse fato e, por opção do outro Estado, o primeiro Estado mencionado deve suspender ou retirar o seu pedido.
8. Em nenhum caso, as disposições do presente Artigo devem ser interpretadas de modo a impor a um Estado Contratante a obrigação:
a) realizar medidas administrativas em desacordo com as leis e prática administrativa desse ou do outro Estado Contratante;
b) realizar medidas que sejam contrárias à ordem pública;
c) prestar assistência se o outro Estado Contratante não tiver adotado todas as medidas razoáveis de cobrança ou conservação, conforme o caso, disponível nas suas leis ou práticas administrativas;
d) prestar assistência nos casos em que o encargo administrativo para esse Estado é claramente desproporcional ao benefício a ser recebido pelo outro Estado Contratante.

O tema da assistência entre os Estados contratantes na cobrança de impostos é relativamente recente na redação das convenções modelos. A OCDE incluiu este artigo na revisão de seu modelo ocorrida em 2003, enquanto a ONU apenas o incluiu na recente revisão do ano de 2017. Os dois modelos de convenções possuem redação idêntica.

Em síntese, esta regra estipula que os Estados contratantes devem se auxiliar mutuamente com o objetivo de recuperar créditos fiscais que são devidos, quando seja

necessário a prática de atos de cobrança no outro Estado contratante. Dessa forma, caso nesse outro Estado não exista uma lei que impeça a cobrança do crédito fiscal pretendido pelo primeiro Estado contratante, o outro Estado deve cobrá-lo como se fosse seu o crédito fiscal, nas mesmas condições e prazos estabelecidos em sua legislação interna.

Nenhuma das convenções bilaterais brasileiras de dupla tributação possui regra semelhante ao Artigo 27 das convenções modelos. Todavia, isso não significa dizer que o país não tenha se obrigado a assistência mútua na cobrança de créditos tributários. Isto, pois, na Seção II e seguintes da Convenção Multilateral Sobre Assistência Mútua Administrativa em Matéria Tributária, a qual o Brasil é signatário, estipula as regras de auxílio na cobrança de créditos tributários. Não obstante esta obrigação internacional assumida pelo país, a tendência, todavia, é que as futuras convenções bilaterais assinadas pelo país sejam celebradas com a inclusão do Artigo 27 presente nas convenções modelos, tendo em vista que em toda sua história o país tem seguido as diretrizes da OCDE e ONU no tocante a elaboração de acordo bilateral sobre dupla tributação.

3.28. Membros de missões diplomáticas e postos consulares

CM ONU/2017	CM OCDE/2017
ARTIGO 28 Membros de missões consulares e postos consulares Nada na presente Convenção afetará os privilégios fiscais dos membros de missões ou postos consulares ao abrigo das regras gerais do direito internacional ou disposições de acordos especiais.	ARTIGO 28 Membros de missões consulares e postos consulares Nada na presente Convenção afetará os privilégios fiscais dos membros de missões ou postos consulares ao abrigo das regras gerais do direito internacional ou disposições de acordos especiais.

O Artigo 28 das convenções modelos, cuja redação está presente em todos as convenções brasileiras, salvaguarda regra de tributação especial de membros de missões diplomáticas e postos consulares. Sobre o tema, destaca-se as Convenções de Viena de 1961[64] e 1963[65], que fixam um regime fiscal privilegiado para essas pessoas.

Portanto, sempre que se tratar de tributação de membros de missões diplomáticas e postos consulares, será necessário observar as regras de tributação especial.

[64] Convenção de Viena sobre Relações Diplomáticas, promulgada pelo Decreto nº 56.435, de 08 de junho de 1965.
[65] Convenção de Viena sobre Relações Consulares, promulgada pelo Decreto nº 61.078, de 26 de julho de 1967.

3.29. Direitos a benefícios

CM ONU/2017	CM OCDE/2017
ARTIGO 29 Direito a benefícios 1. Salvo disposição em contrário do presente artigo, um residente de um Estado Contratante não terá direito a um benefício que de outra forma seria concedido por esta Convenção (exceto um benefício de acordo com o parágrafo 3 do Artigo 4, parágrafo 2 do Artigo 9 ou Artigo 25) a menos que esse residente seja uma "pessoa qualificada", conforme definido no parágrafo 2, no momento em que o benefício fosse concedido. 2. Um residente de um Estado Contratante deve ser uma pessoa qualificada no momento em que um benefício seria concedido pela Convenção se, naquele momento, o residente for: a) um indivíduo; b) esse Estado Contratante, ou uma subdivisão política ou autoridade local do mesmo, ou uma agência ou instrumento desse Estado, subdivisão política ou autoridade local; c) uma empresa ou outra entidade, se, durante todo o período tributável que inclui esse período, a classe principal de suas ações (e qualquer classe desproporcional de ações) for negociada regularmente em uma ou mais bolsas de valores reconhecidas e: (i) a sua principal classe de ações é negociada principalmente em uma ou mais bolsas de valores reconhecidas localizadas no Estado Contratante de que a empresa ou entidade é residente; ou (ii) o local principal de administração e controle da empresa ou entidade está no Estado Contratante do qual é residente; d) uma empresa, se: (i) durante todo o período tributável que inclui esse período, pelo menos 50% do voto e valor agregado das ações (e pelo menos 50% do voto e valor agregado de qualquer classe desproporcional de ações) na empresa pertencem diretamente ou indiretamente por cinco ou menos empresas ou entidades com direito a benefícios nos termos da alínea c) deste parágrafo, desde que, no caso de propriedade indireta, cada proprietário intermediário seja um residente do Estado Contratante do qual um benefício sob esta Convenção esteja sendo procurado ou é um proprietário intermediário qualificado; e (ii) com relação aos benefícios previstos nesta Convenção, exceto no Artigo 10, menos de 50% da receita bruta da empresa e menos de 50% da receita bruta do grupo testado, pelo período tributável que inclui esse período, é pago ou acumulado , direta ou indiretamente, na forma de pagamentos dedutíveis nesse período tributável para fins dos impostos cobertos por esta Convenção no Estado Contratante de residência da empresa (mas não incluindo pagamentos baseados na plena concorrência no curso normal dos negócios por serviços ou serviços tangíveis propriedade, e no caso de um grupo testado, que não inclua transações intragrupo) a pessoas que não sejam residentes de um Estado Contratante com direito aos benefícios desta Convenção nos termos das alíneas a), b), c) ou e);	ARTIGO 29 Direito a benefícios 1. [Disposição que, reservado aos parágrafos 3 a 5, restringe os benefícios de Tratados a residente de um Estado Contratante que seja uma "pessoa qualificada" tal como definida no parágrafo 2]. 2. [Definição de situações em que um residente é uma pessoa qualificada, que abrange — um indivíduo; — um Estado Contratante, as suas subdivisões políticas e as suas agências e instrumentos; — certas sociedades e entidades de capital aberto; — certas filiais de empresas e entidades de capital aberto; — certas organizações sem fins lucrativos e fundos de pensões reconhecidos; — outras entidades que cumpram determinados requisitos de propriedade e de erosão de base; — determinados veículos de investimento coletivo.] 3. [Provisão que forneça benefícios do Tratado a determinados rendimentos recebidos por uma pessoa que não é uma pessoa qualificada se a pessoa está envolvida na conduta ativa de um negócio no seu Estado de residência e os rendimentos emanam, ou são incidentais a esse negócio]. 4. [Provisão que forneça benefícios do Tratado a uma pessoa que não seja uma pessoa qualificada se pelo menos mais do que uma proporção acordada dessa entidade for detida por certas pessoas com direito a benefícios equivalentes]. 5. [Provisão que permite benefícios do Tratado a uma pessoa que se qualifica como "empresa sede"]. 6. [Provisão que permita à autoridade competente de um Estado Contratante conceder determinados benefícios do Tratado a uma pessoa onde os benefícios seriam negados de acordo com a previsão do parágrafo 1]. 7. [Definições aplicáveis para efeitos dos parágrafos 1 a 7]. 8. a) Quando (i) uma empresa de um Estado Contratante receba rendimentos do outro Estado Contratante e o primeiro Estado mencionado trata esses rendimentos como imputável a um estabelecimento permanente da empresa situada numa Terceira jurisdição, e II) os lucros atribuíveis a esse estabelecimento permanente estão isentos de imposto no primeiro Estado mencionado, os benefícios da presente Convenção não se aplicarão a qualquer rubrica de rendimentos que o imposto na Terceira jurisdição é inferior ao menor de [taxa a ser determinada bilateralmente] do montante desse item de renda e 60 por cento do imposto que seria imposto no primeiro Estado mencionado desse item de rendimento se esse estabelecimento permanente estava situado no primeiro Estado mencionado. Em tal caso os rendimentos a que as disposições do presente parágrafo se apliquem devem ser tributáveis de acordo com o direito interno do outro Estado, não obstante qualquer outra disposição da Convenção. b) as disposições precedentes do presente parágrafo não se aplicarão se os rendimentos recebidos do outro Estado emanam de, ou são incidentais a, conduta ativa de negócio exercido através do estabelecimento permanente (outro que o negócio de fazer, gerir ou simplesmente holding de investimentos por conta da própria empresa, a menos que essas atividades sejam bancárias, seguros ou atividades mobiliárias exercidas por um Banco, empresa de seguros ou revendedor de valores mobiliários, respectivamente).

e) uma pessoa, que não seja um indivíduo, que
(i) é uma [descrição acordada das organizações sem fins lucrativos relevantes encontradas em cada Estado Contratante],
(ii) é um fundo de pensão reconhecido ao qual se aplica a subdivisão (i) da definição de fundo de pensão reconhecido no parágrafo 1 do Artigo 3, desde que mais de 50% dos interesses benéficos nessa pessoa sejam de propriedade de indivíduos residentes de Estado Contratante, ou mais de [__ por cento] dos interesses benéficos dessa pessoa pertencem a indivíduos residentes de um Estado Contratante ou de qualquer outro Estado com relação ao qual sejam atendidas as seguintes condições (A) indivíduos residentes desse outro Estado tenha direito aos benefícios de uma convenção abrangente para evitar a dupla tributação entre aquele outro Estado e o Estado do qual os benefícios desta Convenção são reivindicados, e (B) com relação aos rendimentos mencionados nos Artigos 10 e 11 desta Convenção, se a pessoa fosse residente desse outro Estado com direito a todos os benefícios dessa outra convenção, a pessoa teria direito, de acordo com essa convenção, a uma alíquota de imposto em respeito à classe de renda específica para a qual os benefícios estão sendo reivindicados sob esta Convenção que seja pelo menos tão baixa quanto a taxa aplicável sob esta Convenção; ou (iii) é um fundo de pensão reconhecido ao qual se aplica a subdivisão (ii) da definição de fundo de pensão reconhecido no parágrafo 1 do Artigo 3, desde que seja estabelecido e operado exclusiva ou quase exclusivamente para investir fundos em benefício de entidades ou disposições referidas na subdivisão anterior;
(f) uma pessoa, que não seja um indivíduo, que
(i) Naquele momento e em pelo menos metade dos dias de um período de doze meses que inclua esse tempo, pessoas residentes desse Estado Contratante e que tenham direito aos benefícios da presente Convenção nos termos das alíneas a), b), c) ou e) possuir, direta ou indiretamente, ações que representem pelo menos 50% do voto e valor agregado (e pelo menos 50% do voto e valor agregado de qualquer classe desproporcional de ações) das ações da pessoa, desde que , no caso de propriedade indireta, cada proprietário intermediário é um proprietário intermediário qualificado e
(ii) menos de 50% da renda bruta da pessoa e menos de 50% da renda bruta do grupo testado, pelo período tributável que inclui esse tempo, é pago ou acumulado, direta ou indiretamente, na forma de pagamentos dedutíveis para fins dos impostos cobertos por esta Convenção no Estado Contratante de residência da pessoa (mas não incluindo pagamentos baseados na plena concorrência no curso normal dos negócios por serviços ou bens tangíveis, e no caso de um grupo testado, não incluindo transações intragrupo), a pessoas que não sejam residentes de um dos Estados Contratantes com direito aos benefícios da presente Convenção nos termos das alíneas a), b), c) ou e) deste parágrafo; ou
g) [possível previsão em veículos de investimento coletivo];
3. (a) Um residente de um Estado Contratante terá direito a benefícios nos termos desta Convenção em relação a um item de renda derivado do outro Estado Contratante, independentemente de o residente ser uma pessoa qualificada, se o residente estiver envolvido na condução ativa de uma empresa no primeiro Estado mencionado (que não seja o negócio de fazer ou administrar investimentos por conta do residente, a menos que essas atividades sejam atividades bancárias, de seguros ou de valores mobiliários realizadas por um banco ou por instituições financeiras semelhantes a bancos com os quais os Estados Contratantes concordam tratar como tal], empresa de seguros ou negociante de valores mobiliários registrado, respectivamente), e os rendimentos provenientes do outro Estado emanam ou são incidentais a esses negócios. Para os fins deste artigo, o termo "conduta ativa de uma empresa" não deve incluir as seguintes atividades ou qualquer combinação das mesmas:
(i) operando como uma holding;
(ii) fornecer supervisão ou administração geral de um grupo de empresas;
(iii) fornecer financiamento de grupo (incluindo pool de caixa); ou
c) se as prestações previstas na presente Convenção forem negadas nos termos das disposições do presente parágrafo no que diz respeito a um item de rendimento recebido por um residente de um Estado Contratante, a autoridade competente do outro Estado Contratante pode, todavia, conceder estes benefícios em relação ao item de rendimento se, em resposta a um pedido de tal residente, tal autoridade competente determina que a concessão desses benefícios se justifica à luz das razões como esse residente não satisfez os requisitos do presente parágrafo como a existência de perdas). A autoridade competente do Estado Contratante que um pedido foi feito ao abrigo da sentença precedente deve consultar com a autoridade competente do outro Estado Contratante antes de qualquer conceder ou negar o pedido.
9. Não obstante as outras disposições da presente Convenção, um benefício ao abrigo desta Convenção não é concedida em relação a uma rubrica de rendimentos ou de capital se é razoável concluir, tendo em conta todos os fatos e circunstâncias relevantes, que a obtenção desse benefício foi um dos propósitos principais de qualquer arranjo ou transação que resultou direta ou indiretamente nesse benefício, a menos que seja estabelecido que conceder esse benefício nessas circunstâncias seria de acordo com o objeto e finalidade das disposições pertinentes da presente Convenção.

(iv) realizar ou administrar investimentos, a menos que essas atividades sejam realizadas por um banco [listar instituições financeiras semelhantes a bancos que os Estados Contratantes concordam em tratar como tal], empresa de seguros ou negociante de valores mobiliários registrado no curso normal de seus negócios como tal.

(b) Se um residente de um Estado Contratante recebe um item de receita de uma atividade comercial realizada por esse residente no outro Estado Contratante, ou recebe um item de receita proveniente do outro Estado de uma pessoa relacionada, as condições descritas na alínea a) devem considerar-se satisfeito com esse item apenas se a atividade comercial exercida pelo residente no primeiro Estado mencionado ao qual o item estiver relacionado for substancial em relação à mesma atividade comercial complementar ou complementar exercida pelo residente ou pessoa conectada no outro Estado Contratante. A determinação de uma atividade comercial para os fins deste parágrafo deve ser determinada com base em todos os fatos e circunstâncias.

(c) Para fins de aplicação deste parágrafo, as atividades conduzidas por pessoas relacionadas com relação a um residente de um Estado Contratante serão consideradas conduzidas por esse residente.

4. [Uma regra que fornece os chamados benefícios derivativos. A questão de como o parágrafo de benefícios derivativos deve ser redigido em uma convenção que segue a versão detalhada é discutida no Comentário.]

5. Uma empresa residente de um Estado Contratante que funcione como empresa sede de um grupo corporativo multinacional constituído por essa empresa e suas subsidiárias diretas e indiretas terá direito a benefícios nos termos da presente Convenção com relação aos dividendos e juros pagos pelos membros de sua grupo corporativo multinacional, independentemente de o residente ser uma pessoa qualificada. Uma empresa será considerada uma empresa-sede para esse fim somente se:

(a) o local principal de administração e controle dessa empresa está no Estado Contratante do qual é residente;

(b) o grupo corporativo multinacional consiste em empresas residentes e envolvidas na condução ativa de uma empresa em pelo menos quatro Estados, e as empresas realizadas em cada um dos quatro Estados (ou quatro grupos de Estados) geram pelo menos 10% da receita bruta do grupo;

(c) os negócios do grupo corporativo multinacional que são realizados em qualquer Estado que não seja o Estado Contratante de residência dessa empresa geram menos de 50% da receita bruta do grupo;

(d) não mais de 25% da receita bruta dessa empresa é proveniente do outro Estado Contratante;

(e) essa empresa está sujeita às mesmas regras de tributação em seu Estado Contratante de residência que as pessoas descritas no parágrafo 3 deste Artigo; e

(f) menos de 50% da receita bruta de tal empresa e menos de 50% da receita bruta do grupo testado são pagos ou acumulados, direta ou indiretamente, na forma de pagamentos dedutíveis para fins dos impostos cobertos por esta Convenção no Estado Contratante de residência da empresa (mas não incluindo pagamentos baseados na plena concorrência no curso normal dos negócios por serviços ou bens tangíveis ou pagamentos referentes a obrigações financeiras para um banco que não seja uma pessoa conectada com relação a essa empresa e no caso de um grupo testado, que não inclua transações intragrupo) a pessoas que não sejam residentes de um Estado Contratante com direito aos benefícios da presente Convenção nos termos das alíneas a), b), c) ou e) do parágrafo 2. Se os requisitos das alíneas b), c) ou d) deste parágrafo não forem cumpridas durante o período tributável relevante, elas serão consideradas cumpridas se os índices exigidos forem atendidos ao calcular a média da receita bruta dos quatro períodos tributáveis anteriores.

6. Se um residente de um Estado Contratante não for uma pessoa qualificada nos termos do parágrafo 2 deste Artigo, nem tiver direito a benefícios nos termos dos parágrafos 3, 4 ou 5, a autoridade competente do Estado Contratante em que os benefícios forem negados nos termos das disposições deste artigo podem, no entanto, conceder os benefícios desta Convenção, ou benefícios com relação a um item específico de renda ou capital, levando em consideração o objeto e a finalidade da presente Convenção, mas somente se esse residente demonstrar que está satisfeito com tal autoridade competente que nem seu estabelecimento, aquisição ou manutenção, nem a condução de suas operações, tinham como um de seus principais objetivos a obtenção de benefícios sob esta Convenção. A autoridade competente do Estado Contratante a quem um pedido tenha sido feito, nos termos deste parágrafo, por um residente do outro Estado, deve consultar a autoridade competente desse outro Estado antes de conceder ou negar o pedido.

7. Para os fins deste e dos parágrafos anteriores deste Artigo:

(a) o termo "bolsa de valores reconhecida" significa:

(i) [lista de bolsas acordadas no momento da assinatura]; e

(ii) qualquer outra bolsa de valores acordada pelas autoridades competentes dos Estados Contratantes;

(b) com relação a entidades que não são empresas, o termo "ações" significa interesses comparáveis às ações;

(c) o termo "classe principal de ações" significa as ações ordinárias ou ordinárias da companhia ou entidade, desde que essa classe de ações represente a maioria do voto e valor agregados da companhia ou entidade. Se nenhuma classe única de ações ordinárias ou ordinárias representa a maioria dos votos e valor agregados da empresa ou entidade, a "classe principal de ações" são aquelas que, em conjunto, representam a maioria dos votos e valores agregados;

(d) duas pessoas serão "pessoas relacionadas" se uma possuir, direta ou indiretamente, pelo menos 50% do interesse benéfico na outra (ou, no caso de uma empresa, pelo menos 50% do voto e valor agregado da ações da empresa) ou outra pessoa possui, direta ou indiretamente, pelo menos 50% do interesse benéfico (ou, no caso de uma empresa, pelo menos 50% do voto e valor agregado das ações da empresa) em cada pessoa. Em qualquer caso, uma pessoa deve estar relacionada a outra se, com base em todos os fatos e circunstâncias relevantes, uma tiver controle da outra ou ambas estiverem sob o controle da mesma pessoa ou pessoas.

(e) o termo "beneficiário equivalente" significa:

(i) residente de qualquer Estado, desde que:

(A) o residente tenha direito a todos os benefícios de uma convenção abrangente para evitar a dupla tributação entre esse Estado e o Estado Contratante do qual os benefícios desta Convenção são solicitados, de acordo com disposições substancialmente semelhantes às alíneas a), b), c) ou e) do parágrafo 2 ou, quando o benefício solicitado for referente a juros ou dividendos pagos por um membro do grupo corporativo multinacional do residente, o residente terá direito a benefícios de acordo com disposições substancialmente semelhantes ao parágrafo 5 deste artigo em tal convenção, desde que, se essa convenção não contiver uma limitação detalhada do artigo sobre benefícios, tal convenção será aplicada como se o disposto nas alíneas a), b), c) e e) do parágrafo 2 (incluindo as definições relevantes para a aplicação d os testes em tais parágrafos) estavam contidos em tal convenção; e

(B) (1) no que diz respeito aos rendimentos referidos nos artigos 10, 11, 12 ou 12A, se o residente tivesse recebido diretamente esses rendimentos, o residente teria direito, nos termos da referida convenção, a uma disposição do direito interno ou a qualquer acordo internacional, a uma taxa de imposto a tais rendimentos para os quais sejam buscados benefícios sob esta Convenção que sejam menores ou iguais à taxa aplicável sob esta Convenção. No caso de uma empresa que busca, nos termos do parágrafo 4, os benefícios do Artigo 10 com relação a dividendos, para os fins desta subcláusula:

(I) se o residente for um indivíduo e a empresa estiver envolvida na condução ativa de uma empresa em seu Estado Contratante de residência que seja substancial em relação e semelhante ou complementar à empresa que gerou os ganhos dos quais o dividendo é pago, esse indivíduo deve ser tratado como se fosse uma empresa. As atividades conduzidas por uma pessoa relacionada com relação à empresa que busca benefícios serão consideradas como conduzidas por essa empresa. A importância de uma atividade comercial deve ser determinada com base em todos os fatos e circunstâncias; e
(II) se o residente for uma empresa (incluindo um indivíduo tratado como uma empresa), para determinar se o residente tem direito a uma taxa de imposto que é menor ou igual à taxa aplicável sob esta Convenção, a posse indireta do capital pelo residente da empresa que paga os dividendos deve ser tratada como uma participação direta; ou
(2) com relação a um item de renda referido nos artigos 7, 13 ou 21 da presente convenção, o residente tem direito a benefícios sob essa convenção que sejam pelo menos tão favoráveis quanto os benefícios que estão sendo buscados sob esta convenção; e
(C) não obstante que um residente possa satisfazer os requisitos das cláusulas A) e B) desta subdivisão, quando o item de receita tiver sido obtido por meio de uma entidade tratada como fiscalmente transparente de acordo com as leis do Estado Contratante de residência da empresa que busca benefícios, se o item de receita não for tratado como o rendimento do residente de acordo com uma disposição análoga ao parágrafo 2 do Artigo 1, o possuísse o residente, e não a empresa que busca benefícios de acordo com o parágrafo 4 deste Artigo, possuía a entidade pela qual renda foi obtida pela empresa, esse residente não será considerado um beneficiário equivalente em relação ao item de renda;
(ii) um residente do mesmo Estado Contratante que a empresa que busca benefícios, de acordo com o parágrafo 4 deste Artigo, que tem direito a todos os benefícios desta Convenção em virtude das alíneas a), b), c) ou e) do parágrafo 2 ou, quando o benefício procurado é referente a juros ou dividendos pagos por um membro do grupo corporativo multinacional do residente, o residente tem direito a benefícios nos termos do parágrafo 5, desde que, no caso de um residente descrito no parágrafo 5, se o residente tenha recebido juros ou dividendos diretamente, o residente teria direito a uma alíquota de imposto referente a uma renda menor ou igual à alíquota aplicável nos termos desta Convenção à empresa que busca benefícios nos termos do parágrafo 4; ou
(iii) um residente do Estado Contratante a partir do qual os benefícios da presente Convenção são solicitados e que tem direito a todos os benefícios da presente Convenção nos termos das alíneas a), b), c) ou e) do parágrafo 2, desde que toda essa propriedade do residente do voto agregado e do valor das ações (e de qualquer classe desproporcional de ações) da empresa que busca benefícios nos termos do parágrafo 4 não excede 25% do total de votos e valor das ações (e qualquer classe desproporcional de ações) da a empresa;
(f) o termo “classe desproporcional de ações” significa qualquer classe de ações de uma empresa ou entidade residente em um dos Estados Contratantes que autorize o acionista a uma participação desproporcionalmente maior, por meio de dividendos, pagamentos de resgate ou de outra forma, nos ganhos gerados no outro Estado Contratante por ativos ou atividades particulares da empresa;
(g) o "principal local de administração e controle de uma empresa ou entidade" fica no Estado Contratante do qual é residente apenas se:

i) os diretores executivos e os funcionários da alta administração da empresa ou entidade exercem a responsabilidade cotidiana por mais decisões estratégicas, financeiras e operacionais da política da empresa ou entidade e de suas subsidiárias diretas e indiretas, e a equipe dessas pessoas conduz mais atividades diárias necessárias para preparar e tomar essas decisões naquele Estado Contratante do que em qualquer outro Estado; e

(ii) esses diretores executivos e funcionários da alta administração exercem a responsabilidade cotidiana por mais decisões estratégicas, financeiras e operacionais da política da empresa ou entidade e de suas subsidiárias diretas e indiretas, e os funcionários dessas pessoas conduzem a maior parte do dia atividades hoje necessárias para preparar e tomar essas decisões, que os executivos ou funcionários de qualquer outra empresa ou entidade;

(h) o termo "proprietário intermediário qualificado" significa um proprietário intermediário que é:

(i) um residente de um Estado que tenha em vigor com o Estado Contratante do qual se esteja buscando um benefício nos termos da presente Convenção uma convenção abrangente para evitar a dupla tributação; ou

(ii) um residente do mesmo Estado Contratante que a empresa que aplicou o teste nos termos das alíneas d) ou f) do parágrafo 2 ou do parágrafo 4 para determinar se é elegível para os benefícios da Convenção;

(i) o termo “grupo testado” significa o residente de um Estado Contratante que está aplicando o teste de acordo com as alíneas d) ou f) do parágrafo 2 ou sob os parágrafos 4 ou 5 para determinar se é elegível para benefícios sob a Convenção (o “residente testado”) e qualquer empresa ou estabelecimento permanente que:

(i) participa como membro do residente testado em uma consolidação tributária, unidade fiscal ou regime similar que exige que os membros do grupo compartilhem lucros ou perdas; ou

(ii) compartilha perdas com o residente testado de acordo com um regime de alívio em grupo ou outro regime de compartilhamento de perdas no período tributável relevante; [e]

(j) o termo “receita bruta” significa receitas brutas, conforme determinado no Estado Contratante de residência da pessoa, para o período tributável que inclui o tempo em que o benefício seria concedido, exceto quando uma pessoa estiver envolvida em um negócio que inclua manufatura, produção ou venda de bens, “receita bruta” significa essas receitas brutas reduzidas pelo custo das mercadorias vendidas e, quando uma pessoa está envolvida em um negócio de prestação de serviços não financeiros, “receita bruta” significa essas receitas brutas reduzidas pelos custos diretos de gerar tais recebimentos, desde que:

(i) exceto quando relevante para determinar os benefícios nos termos do artigo 10 desta Convenção, a receita bruta não incluirá a parte de quaisquer dividendos efetivamente isentos de imposto no Estado Contratante de residência da pessoa, seja através de deduções ou de outra forma; e

(ii) exceto com relação à parte de qualquer dividendo tributável, a receita bruta de um grupo testado não deve levar em consideração as transações entre empresas do grupo testado; [e]

8. (a) Onde

(i) uma empresa de um Estado Contratante obtiver renda do outro Estado Contratante e o primeiro Estado tratar essa renda como atribuível a um estabelecimento permanente da empresa situada em uma terceira jurisdição, e

(ii) os lucros atribuíveis a esse estabelecimento permanente estão isentos de imposto no primeiro Estado mencionado, os benefícios desta Convenção não se aplicarão a qualquer item de receita em que o imposto na terceira jurisdição seja menor que o menor de [taxa a ser determinada bilateralmente] do valor desse item de renda e 60% do imposto que seria imposto no primeiro Estado mencionado sobre esse item de renda se esse estabelecimento permanente estivesse situado no primeiro Estado mencionado.

Nesse caso, qualquer renda a que as disposições deste parágrafo se apliquem permanecerá tributável de acordo com a lei interna do outro Estado, não obstante quaisquer outras disposições da Convenção.

(b) As disposições anteriores deste parágrafo não se aplicarão se a receita proveniente do outro Estado emanar de, ou for incidental, à condução ativa de um negócio realizado através do estabelecimento permanente (exceto o negócio de realizar, administrar ou simplesmente manter investimentos por conta própria da empresa, a menos que essas atividades sejam atividades bancárias, de seguros ou de valores mobiliários realizadas por um banco, empresa de seguros ou revendedor registrado de valores mobiliários, respectivamente).
(c) Se os benefícios previstos nesta Convenção forem negados de acordo com as disposições anteriores deste parágrafo em relação a um item de renda obtido por um residente de um Estado Contratante, a autoridade competente do outro Estado Contratante poderá, no entanto, conceder esses benefícios com relação àquele item de receita se, em resposta a uma solicitação de tal residente, essa autoridade competente determinar que a concessão de tais benefícios é justificada à luz dos motivos pelos quais esse residente não atendeu aos requisitos deste parágrafo (como a existência de perdas). A autoridade competente do Estado Contratante a que foi feito um pedido nos termos da frase anterior deve consultar a autoridade competente do outro Estado Contratante antes de conceder ou negar o pedido.
9. Não obstante as outras disposições desta Convenção, um benefício sob esta Convenção não será concedido em relação a um item de receita ou capital se for razoável concluir, tendo em conta todos os fatos e circunstâncias relevantes, que a obtenção desse benefício foi uma das principais objetivos de qualquer acordo ou transação que tenha resultado direta ou indiretamente nesse benefício, a menos que seja estabelecido que a concessão desse benefício nessas circunstâncias estaria de acordo com o objeto e a finalidade das disposições relevantes desta Convenção.

A última revisão da redação das convenções modelos OCDE e ONU, ambas realizadas em 2017, incluiu cláusula antiabuso de limitação dos benefícios previstos nos acordos de dupla tributação, quando for identificado abuso praticado com o intuito de evadir ou elidir o pagamento de impostos nos Estados contratantes.

Esse novo artigo faz parte de uma ação coordenada dos organismos internacionais na tentativa de evitar ou, ao menos, mitigar, práticas realizadas em operações internacionais com o único objetivo de facilitar a erosão de receitas tributáveis. A ação mais enfática para evitar a elisão e evasão fiscal está em desenvolvimento na OCDE, desde o início desta década, denominada de BEPS[66] (sigla em inglês que significa Erosão da Base Tributável e Transferência de Lucros).

São 15 os temas identificados no BEPS que facilitam práticas abusivas: economia digital (ação 1); híbridos (ação 2); sociedades estrangeiras controladas (ação 3); dedutibilidade de juros e de outros gastos (ação 4); práticas fiscais agressivas, transparência e substância (ação 5); abuso de tratados fiscais (ação 6); estabelecimento estável (ação 7); preços de transferência e criação de valor e transações de risco (ações 8-10); metodologias para coligir e analisar dados (ação 11); reporte de esquemas de

[66] Base Erosion and Profit Shifting.

planejamento fiscal agressivo (ação 12); documentação de preços de transferência (ação 13); mecanismos de resolução de conflitos (ação 14) e desenvolvimento de um instrumento multilateral (ação 15). Essas ações têm como objetivo solucionar lacunas nos acordos de dupla tributação para evitar a dupla não tributação e a transferência de lucros entre os Estados contratantes por meio de planejamento fiscal agressivo.

A limitação de benefícios a pessoas abrangidas por acordo de dupla tributação, tratada no Artigo 29 das convenções modelos, faz parte da ação 6 do BEPS ("abuso de tratados fiscais"). Em síntese, essa regra possui inspiração na cláusula geral antiabuso baseada no princípio do "*principal purpose test"* (objeto principal dos negócios). Ou seja, por essa regra um benefício previsto em um acordo de dupla tributação não deve ser concedido a uma pessoa abrangida pela convenção se for razoável concluir que a obtenção do benefício foi o objetivo principal da operação tributável, e que a obtenção desse benefício não está de acordo com o objetivo e finalidade das disposições da convenção de dupla tributação[67].

A introdução expressa da redação do Artigo 29 nas convenções de dupla tributação resolverá, desde logo, questões atinentes a legitimidade de aplicação da legislação interna dos Estados contratantes para afastar as regras que limitam a tributação dos Estados signatários do acordo.

Nenhuma das convenções brasileiras possui redação semelhante ao Artigo 29 das convenções modelos. Entretanto, oportuno destacar que as convenções com Argentina, México, Rússia, Venezuela, Trinidad e Tobago e Turquia, já possuem regra que prevê a limitações de benefícios ao abrigo dos referidos acordos. Enquanto a regra prevista nestas duas últimas convenções é de certa forma simples e genérica, limitando a aplicação da convenção quando as autoridades competentes dos Estados contratantes entenderem que o benefício obtido por uma pessoa abrangida constituiria abuso ao tratado, as demais convenções em que constam a cláusula de limitação de benefícios podem ser consideradas um embrião da regra previsto no Artigo 29 das convenções modelo.

3.30. Extensão territorial

[67] DOURADO, Ana Paula. *Governação Fiscal Global*, Editora Almedina, 2017.

CM ONU/2017	CM OCDE/2017
	ARTIGO 30 Extensão territorial 1. A presente Convenção pode ser alargada, na íntegra ou com qualquer modificação [a qualquer parte do território (Estado A) ou de (Estado B) que seja especificamente excluídos da aplicação da Convenção ou], a qualquer Estado ou território para os quais as relações internacionais (Estado A) ou (Estado B) é responsável, o que impõe impostos caráter substancialmente semelhante ao que a Convenção se aplica. Qualquer extensão deve ter efeito a partir dessa data e sujeita a essas modificações e condições, incluindo condições como a rescisão, como pode ser especificado e acordado entre os Estados Contratantes em notas a serem trocadas através de canais diplomáticos ou de qualquer outra forma, de acordo com os seus procedimentos constitucionais. 2. Salvo acordo em contrário por ambos os Estados Contratantes, a cessação da Convenção por um deles nos termos do Artigo 32 deve igualmente cessar, na forma previstos no mesmo Artigo, a aplicação da Convenção [a qualquer parte do território de (Estado A) ou de (Estado B) ou] a qualquer Estado ou território ao qual tenha sido estendido ao abrigo do presente Artigo.

A convenção modelo OCDE prevê em seu Artigo 30 (na versão redigida em 2017) que os Estados contratantes poderão alargar o âmbito de aplicação do acordo de dupla tributação a qualquer Estado ou território que sejam responsáveis. Essa regra não encontra previsão na convenção modelo ONU.

Apenas as convenções brasileiras assinadas com Dinamarca, França e Noruega possuem regra semelhante ao Artigo 30 da convenção modelo OCDE. As demais convenções vigentes não possuem essa regra.

3.31. Entrada em vigor e Denúncia

CM ONU/2017	CM OCDE/2017
ARTIGO 30 Entrada em vigor 1. A presente Convenção é ratificada e os instrumentos de ratificação são trocados em ..... o mais rápido possível. 2. A Convenção entrará em vigor quando do intercâmbio de instrumentos de ratificação e as suas disposições terão efeito: a) (no Estado A): b) (no Estado B):	ARTIGO 31 Entrada em vigor 1. A presente Convenção é ratificada e os instrumentos de ratificação são trocados em ..... o mais rápido possível. 2. A Convenção entrará em vigor quando do intercâmbio de instrumentos de ratificação e as suas disposições terão efeito: a) (no Estado A): b) (no Estado B):
ARTIGO 31 Denúncia A presente Convenção permanecerá em vigor até ser rescindida por um Estado Contratante. Qualquer Estado Contratante pode rescindir a Convenção, através de canais diplomáticos, por aviso de rescisão pelo menos seis meses antes do final de qualquer ano civil após o ano ... Nesse caso, a Convenção deixará de ter efeito: a) (no Estado A): b) (no Estado B):	ARTIGO 32 Denúncia A presente Convenção permanecerá em vigor até ser rescindida por um Estado Contratante. Qualquer Estado Contratante pode rescindir a Convenção, através de canais diplomáticos, por aviso de rescisão pelo menos seis meses antes do final de qualquer ano civil após o ano ... Nesse caso, a Convenção deixará de ter efeito: a) (no Estado A): b) (no Estado B):

Os dois últimos artigos das convenções modelos, Artigos 30 e 31 da convenção modelo ONU e Artigos 31 e 32 da convenção modelo OCDE, tratam do

aspecto temporal de aplicação dos acordos. Todas as convenções brasileiras possuem estas duas regras em sua redação.

O primeiro dos artigos estabelecerá o momento em que o tratado terá vigência para os Estados contratantes. Oportuno mencionar que os Estados contratantes podem estabelecer datas de início do vigor da convenção diferentes entre si.

Já o segundo artigo estabelece o momento em que o acordo deixará de produzir efeitos. Regra geral, as convenções modelos indicam a necessidade de se estabelecer um "prazo mínimo" de vigência de 06 meses, após a denúncia do acordo, para que tanto os Estados contratantes quanto as pessoas afetadas pelo acordo de dupla tributação possam se adequar à nova realidade que será enfrentada. Nas convenções brasileiras há dois tipos de redação da regra para estabelecer este mesmo prazo de 06 meses de vigência: (i) notificação com 06 meses de antecedência do final do ano calendário; ou (ii) notificação até o dia 30 de junho, inclusive, do ano calendário.

3.32. Métodos de aplicação

As convenções brasileiras celebradas com Dinamarca, Espanha e Luxemburgo, além de todas as regras anteriormente tratadas, estabelecem uma regra especial em que as autoridades competentes dos Estados Contratantes estabelecerão, de comum acordo, os métodos de aplicação da convenção. Em que pese as convenções com esses países conterem regulamentações editadas pelo Ministério da Fazenda do Brasil, não há qualquer informação disponível de que os atos normativos foram editados em comum acordo com os outros Estados contratantes.

4. Conclusão

Pelo presente estudo das convenções de dupla tributação vigentes no Brasil, à luz das convenções modelos OCDE e ONU, possível apresentar as seguintes conclusões:

1. O Brasil, devido as dimensões físicas e por ser uma das dez maiores econômicas do mundo, possui grande potencial no cenário do comércio internacional, entretanto os dados econômicos demonstram que grande parte da economia do país se origina em seu próprio mercado interno e, com relação ao mercado internacional, majoritariamente em decorrência das exportações de commodities (tais como soja, minério de ferro, petróleo cru e açúcar bruto) e a importação de produtos manufaturados de alto valor agregado (tais como medicamentos, peças de veículos e eletrônicos).

2. O comércio internacional do país está altamente concentrado nas relações comerciais com os Estados Unidos da América, a China, a Alemanha e os países que integram o bloco econômico do Mercosul.

3. Essa característica econômica do país reflete na ordem jurídica, em especial no direito tributário internacional e, em especial, na celebração de convenções para se evitar a dupla tributação jurídica internacional, sendo que atualmente o Brasil possui apenas 32 Convenções de Dupla Tributação (CDT) bilaterais em vigor, com os seguintes países: África do Sul, Argentina, Áustria, Bélgica, Canadá, Chile, China, Coreia do Sul, Dinamarca, Equador, Eslováquia, Espanha, Filipinas, Finlândia, França, Hungria, Índia, Israel, Itália, Japão, Luxemburgo, México, Noruega, Países Baixos, Peru, Portugal, República Tcheca, Rússia, Suécia, Trinidad e Tobago, Turquia, Ucrânia, Venezuela. É o país com o menor número de CDT’s em vigor.

4. Não obstante os Estados Unidos da América e a Alemanha serem os principais parceiros econômicos do Brasil no cenário internacional, não há acordo para se evitar a dupla tributação jurídica entre os países.

5. O tema da dupla tributação jurídica internacional já se mostrava como uma situação importante a ser solucionada pelos Estados desde o século XIX, para eliminar os obstáculos que a dupla tributação apresenta ao desenvolvimento das relações comerciais entre países. Na primeira metade do século XIX, identifica-se que as convenções celebradas pelos Estados possuíam alcance limitado na esfera tributária,

tratando, basicamente, de questões de assistência fiscal entre os signatários do acordo. A partir da segunda metade do século XIX, observa-se a celebração das primeiras convenções efetivamente preocupadas em estabelecer limitações à dupla tributação jurídica de rendimentos. A partir do século XX, mais precisamente na década de 20, após o fim da Primeira Guerra Mundial, que os Estados, unidos em organizações internacionais, intensificaram os trabalhos de cooperação em matéria fiscal, objetivando otimizar o intercâmbio de informações, de assistência na cobrança de impostos e padronizar tais normas, a fim de evitar a evasão e a elisão fiscais. Como exemplo, temos a Liga das Nações ou Sociedade das Nações, organização intergovernamental fundamentada em 10 de janeiro de 1920, que conduziu seus países membros a elaboração do primeiro modelo de convenção bilateral em 1928, posteriormente sucedida pelas Nações Unidas e, em paralelo, com a Organização para a Cooperação Econômica Europeia (OCEE), posteriormente rebatizada de Organização para a Cooperação e Desenvolvimento Econômico (OCDE).

6. A crescente interdependência econômica e a cooperação dos países membros da ONU e da OCDE no período pós-guerra mostraram cada vez mais evidente a importância de medidas destinadas a prevenir a dupla tributação jurídica internacional. Ao mesmo tempo, mostrou-se um desafio aos Estados a harmonização destas convenções, em conformidade com princípios, definições, regras e métodos uniformes, e o acordo sobre uma interpretação comum, a fim de facilitar a circulação de pessoas, bens e capitais entre os países membros.

7. Nesse contexto, em meados de 1950 a OCDE estabeleceu um Comitê Fiscal com o objetivo de criar um projeto de Convenção para resolver eficazmente os problemas de dupla tributação existentes entre seus países membros e que seria aceitável para todos os Estados, sendo que em 1963 foi emitido o relatório final pelo Comitê intitulado *Convenção de dupla tributação sobre renda e capital*, que originou a primeira convenção modelo da referida organização internacional.

8. A ONU estabeleceu no fim da década de 60 um grupo *ad hoc* de peritos em tratados fiscais entre países desenvolvidos e em desenvolvimento, também com o objetivo de estabelecer um modelo de convenção para evitar a dupla tributação jurídica entre os diferentes países que pertenciam a organização. Em 1980, após as conclusões do grupo *ad hoc*, as Nações Unidas publicaram sua convenção modelo de dupla tributação entre países desenvolvidos e em desenvolvimento.

9. Tanto a convenção modelo da OCDE quanto da ONU passou por sucessivas revisões nas últimas décadas, sendo a última realizada por ambos os organismos internacionais no ano de 2017.

10. Com relação ao Brasil, possível afirmar que 100% de suas convenções possuem como base ao menos um dos modelos da ONU ou OCDE. Estes modelos possuem disposições comuns, demonstrando a preocupação destas organizações de padronizar as relações jurídicas internacionais de seus membros, ao mesmo tempo que possuem diferenças significativas em determinados pontos, que demonstram a diferença de cada organismo internacional ao tratar da dupla tributação jurídica internacional.

11. A convenção modelo da ONU, por focar na relação de países desenvolvidos e em desenvolvimento, favorece geralmente a retenção de maior parte de um imposto inserido na convenção no país de origem do rendimento – país de acolhimento de investimento – se comparado com o país de residência do investidor; por sua vez, a convenção modelo da OCDE favorece geralmente o país de residência do investidor, evidenciando uma tendência de privilegiar os países exportadores de capital – país de origem do investimento. Os modelos da ONU e da OCDE, em que pese não ser mandatória a adoção pelos países membros ou não membros quando celebram uma convenção de dupla tributação, contém padrões mínimos de governança fiscal recomendada pelas respectivas organizações internacionais, os quais, caso não seguidos pelos Estados, podem ocasionar em sanções políticas e, de forma reflexa, sanções comerciais.

12. O Brasil é um dos países fundadores das Nações Unidas, organismo do qual faz parte como membro desde 1945. Com relação a OCDE, o Brasil não é um país membro, porém é considerado parceiro chave da organização desde meados de 1990. Mesmo não sendo membro da OCDE, verifica-se que os tratados celebrados pelo país desde a década de 1960 já possuem grande influência das convenções modelos de 1963 e 1977.

13. A CDT mais antiga, ainda em vigência no Brasil, foi celebrada com o Japão em 1967. Já a CDT com vigência mais recente, do ano 2017, foi celebrada com a Rússia. Das convenções vigentes, cerca de 28% foram celebradas nas décadas de 1960 e 1970, 13% celebradas na década de 1980, 25% celebradas na década de 1990, 22% celebradas nos anos 2000 e, por fim, 13% celebradas a partir de 2010 até o presente momento.

14. Em paralelo, analisando-se as estatísticas fornecidas pela Organização Mundial do Comércio, verifica-se que o volume do comércio internacional, desde a década de 1950 até os dias atuais, ultrapassou a percentagem de 4.000% de crescimento.

15. Neste período, a participação do país no mercado mundial passou de 0,85% para 1,19%. Contudo, se comparado aos países como a China, Índia e Rússia, que também fazem parte do bloco denominado BRICS, observa-se a falta de planejamento do Brasil em suas relações internacionais. Esta situação está refletida diretamente na quantidade de CDT's celebradas e em vigência pelo país.

16. A natureza das relações comerciais internacionais do país, representada majoritariamente pela exportação de produtos agrícolas e matérias-primas e importação de produtos manufaturados, demonstra também como a país se posiciona nas negociações bilaterais em acordos para evitar a dupla tributação, apontando-se mais para a posição de país importador de capital (país de destino) do que país exportador de capital (país de origem). Este posicionamento impacta diretamente na forma de tributação dos dividendos, royalties e juros.

17. A fixação da residência como critério de limitação para aplicação das convenções existe deste os primeiros modelos elaborados pela ONU (1980) e OCDE (1963). Esta condição é aplicada pelo Brasil em todas as convenções de que é signatário. Em regra, a nacionalidade não é elemento a ser considerado no que diz respeito a aplicação pessoal das convenções sobre dupla tributação.

18. Em decorrência dos esforços da comunidade internacional no combate à evasão fiscal, ao planejamento fiscal abusivo e a transparência fiscal, no ano de 2017 tanto a ONU quanto a OCDE decidiram por alterar os respectivos modelos de convenções para incluir os itens 2 e 3 do Artigo 1 (trata das pessoas visadas pelos acordos), os quais possuem basicamente o mesmo conteúdo em ambos os modelos. O item 2 do Artigo 1 dispõe que o rendimento de qualquer entidade ou arranjo de empresas que sejam, totalmente ou parcialmente, fiscalmente transparente, ou seja, mesmo que não possuam personalidade jurídica em determinado Estado, deve ser considerado como rendimento de um residente de um Estado contratante, na medida que este Estado tribute tal rendimento como se de um residente fosse. O item 3 do Artigo 1 apenas esclareceu que um Estado contratante tem ampla e total liberdade de tributar seus residentes, respeitadas as regras previstas nas convenções de que é signatário. Como as convenções de que o Brasil é signatário são datadas de antes de

2017, as convenções brasileiras não possuem os itens 2 e 3 em referência. Ressalta-se, todavia, que a inserção destes itens nas convenções brasileiras não irá alterar em nada a tributação no país, tendo em vista que não existe na legislação fiscal interna a figura de entidade ou empresa fiscalmente transparente.

19. As convenções modelos, tanto da ONU quanto da OCDE, aplicam-se a todos os impostos sobre o rendimento e sobre o capital, sobre os ganhos derivados da alienação de bens, sobre os salários, sobre as mais-valias e, igualmente, aos seus adicionais e prestações acessórias, independentemente de sua designação ou método de lançamento, cobrança ou liquidação. No Brasil, os ganhos sobre o capital são tratados como outro rendimento qualquer pela legislação do imposto de renda. Por esse motivo, ao se analisar as convenções assinadas pelo país, note-se que não há grande preocupação em mencionar no Artigo 2 que as respectivas convenções se aplicam a renda ou rendimento e, também, sobre o capital, limitando-se na maioria da vezes a mencionar que a convenção se aplicação " aos impostos sobre a renda" ou, quando diretamente mencionado um imposto, faz referência ao "imposto federal de renda".

20. Analisando-se o item 1 e 4 das convenções modelos ONU e OCDE, em conjunto com os comentários ao Artigo 2 existentes na convenção modelo OCDE/2017, verifica-se que o termo "impostos" utilizado pelo Brasil nas convenções de que é signatário não foi adequadamente traduzido quando colocado no contexto da legislação interna do país. Na legislação interna do Brasil o termo "imposto" é utilizado como um tipo de "tributo", sendo que, sem adentrar em maiores detalhes, "tributo" é toda prestação pecuniária compulsória exigida pelo Estado brasileiro. Todavia, no contexto da legislação tributária internacional, já considerando as convenções modelos ONU/1980 e OCDE/1963, constata-se que o termo "*taxes*", a que se refere as CDT's, está relacionado ao poder dos Estados em impor aos contribuintes a ele vinculados o pagamento de determinada prestação pecuniária, ou seja, o termo "*taxes*" utilizado nas CDT's deveria ser traduzido pelo Brasil como "tributo" e não "imposto", de acordo com sua legislação interna.

21. Essa sutil distinção de tradução traz enormes implicações pragmáticas na aplicação das convenções de que o Brasil é signatário, vez que no país há tributos (como as contribuições, por exemplo) que ostentam nitidamente as mesmas características de "*taxes*", para fins de aplicação das convenções de dupla tributação. E, uma vez que o termo "*taxes*" é indevidamente traduzido para "imposto", as Autoridades Tributárias brasileiras aplicam de forma equivocada o conteúdo das

convenções de que o país é signatário, pois limitam seu âmbito de aplicação somente ao imposto de renda, quando, na realidade, deveria ser aplicada também à diversos outros tributos, como, por exemplo, a contribuição social sobre o lucro líquido (CSLL), que tem praticamente o mesmo objeto de tributação do imposto sobre a renda. Esse erro de tradução, seja ele involuntário ou proposital, pode ser invocado pelos Estados contratantes que possuem convenção em vigor com o Brasil a denunciar o acordo, como ocorreu, por exemplo, com a Alemanha no ano de 2005, que denunciou o acordo que possuía com o Brasil indicando exatamente que o Estado brasileiro se negava a cumprir com o disposto no Artigo 2 da Convenção, tendo em vista que diversos "*taxes*" ("tributos", em nossa particular tradução) idênticos ou substancialmente similares ao "imposto federal sobre a renda" eram cobrados pelo Brasil em desrespeito ao tratado.

22. O Artigo 3 das convenções modelos ONU e OCDE contemplam um conjunto de definições necessárias à interpretação de várias de suas disposições, porém este artigo não esgota todos os termos contidos nos acordos. Isso ocorre, por exemplo, em definições de termos previstas em outros artigos, como a definição de "juros", "royalties", "dividendos", "estabelecimento estável", entre outros. A principal diferença entre os modelos da ONU e da OCDE se encontra na definição do termo "nacional". Enquanto a ONU preocupa em definir o termo como uma pessoa que tem a *nacionalidade* de um Estado contratante, a OCDE, a partir de 2000, alargou a definição de "nacional" para as pessoas que possuem a *nacionalidade* ou *cidadania* de um Estado contratante. As convenções de que o Brasil é signatário possuem as mais diversas redações em seu Artigo 3, na maioria das vezes há a repetição dos termos inseridos na convenção modelos da ONU ou da OCDE, com pequenos acréscimos ou subtrações. Estas definições, todavia, são importantes para a adequada a aplicação da tributação em decorrência do tratado de que o país faz parte.

23. Com relação a definição do termo "nacional", no Brasil a distinção entre pessoa com *nacionalidade* ou *cidadania* não interfere na relação jurídica tributária, vez que o artigo 12 da Constituição Federal de 1988 equipara os brasileiros *natos* e os *naturalizados*, vedando qualquer tipo de discriminação entre estas pessoas.

24. No mais, destaca-se que o Brasil se reserva o direito de não incluir as definições de "negócios" e "empresas" no parágrafo 1 do Artigo 3, porque o país se reserva o direito de incluir um artigo referente a tributação de serviços pessoais independentes, conforme pode ser observado nas reservas inseridas na convenção modelo da OCDE.

25. O Artigo 4, por sua vez, sem trazer uma definição do termo "residência", indica os critérios para se identificar uma determinada pessoa como residente de um dos Estados contratantes. O parágrafo 2 do artigo, seja no modelo da ONU quanto da OCDE, assim como nas convenções de que o Brasil é signatário, com exceção da convenção com o Japão, há uma sequência de requisitos a serem cumpridos para eliminar a questão da dupla residência das pessoas físicas. Com relação as pessoas jurídicas, os parágrafos 1 e 3 estabelecem, em regra, que a residência será identificada pelo local de constituição (incorporação), sede de direção ou qualquer outro critério de natureza similar.

26. Pela legislação fiscal brasileira, a residência das pessoas naturais ou físicas, será o local de sua residência habitual ou seu centro de interesses vitais. Enquanto para as pessoas jurídicas, qualquer que seja a forma jurídica adotada para sua constituição, será o local de sua sede ou de cada um de seus estabelecimentos, o que a faz estar em harmonia com as disposições das convenções de que o país é Estado contratante.

27. O conceito de estabelecimento permanente é essencial à tributação dos lucros das empresas, porém não diz respeito a tributação de rendimentos de natureza diversa, tais como dividendos, juros, royalties e rendimentos de atividades de profissionais independentes. Os parágrafos 1 a 3 do Artigo 5 trazem o conceito *clássico* de estabelecimento permanente, qual seja, a definição de estabelecimento permanente em decorrência de um local fixo, que pressupõe um certo grau de permanência do contribuinte em determinado espaço geográfico, para o exercício de sua atividade, independente da forma jurídica adotada para seus negócios.

28. As atividades de caráter preparatório e auxiliar, de acordo com as convenções em vigor no Brasil, são definidas com base nas convenções modelos ONU/1980 e OCDE/1963, portanto, para fins de aplicação dos tratados não constituem um estabelecimento estável. Sem a pretensão de se aprofundar nesta questão, com o avanço do comércio internacional em decorrência do comércio eletrônico, tanto a ONU quanto a OCDE estão revisando sua posição sobre a definição de atividades de caráter preparatório e auxiliar, tendo em vista que, quando da antiga definição formulada por estes órgãos, não existia a *internet* e nem se poderia prever os efeitos que ela teria nas relações comercias. Tanto é assim, que as convenções modelos atualizadas no ano de 2017 já possuem parâmetros mais bem definidos para identificar um estabelecimento permanente, mesmo quando ele é utilizado única e

exclusivamente para fins de desenvolver atividades auxiliares e preparatórios, como, por exemplo, definido no parágrafo 4.1.

29. A tributação de rendimentos de bens imóveis, prevista no Artigo 6 das convenções modelos, e replicado sem grandes divergências em todas as convenções brasileiras em vigor, permanece praticamente inalterada desde a convenção modelo OCDE/1963. Apenas em 1977 foi incluído pela OCDE no parágrafo 1 a frase "*incluindo rendimentos da agricultura ou da silvicultura*", para deixar expresso que o produto derivado destas atividades, que está intrinsecamente relacionado a propriedade imóvel, também deve ser tributado de acordo com a previsto do Artigo 6. O parágrafo 2 remete a definição de "bens imóveis" para a legislação interna do Estado contratante. Todavia, sobrepondo-se às legislações internas, as convenções definem que determinados direitos sobre bens imóveis e acessórios devem obrigatoriamente estar incluído no conceito para fins de aplicação dos tratados, assim como veda que aeronave e navios sejam tratados como bens imóveis. Neste segundo caso, aliás, as convenções possuem disposição específica, em regra, previstas no Artigo 8.

30. Por fim, o parágrafo 4 do Artigo 6 das convenções modelos dispõe que os rendimentos de bens imóveis de uma empresa estão sujeitos à tributação com base nesse artigo, e não como lucro da sociedade (Artigo 7), ou seja, rendimentos de empresas derivados do uso, locação, arrendamento ou qualquer outra forma de exploração de bens imóveis, devem ser tributados nos termos desse artigo. Algumas convenções brasileiras, como é o caso com Finlândia, Peru e Portugal, os Estados contratantes optaram por deixar claro esta opção ao inserir novo parágrafo ou subitem com essa previsão.

31. O Artigo 7, parágrafo 1, tanto do modelo de convenção da ONU quanto da OCDE, assim como todas as convenções de que o Brasil é signatário, consagra a competência exclusiva do Estado da residência relativo à tributação dos lucros das empresas. Essa regra só deve ser excepcionada quando a empresa desenvolve sua atividade no outro Estado por meio de um estabelecimento permanente nele situado. Quando isto ocorrer, tanto o Estado da residência quanto o Estado da fonte, onde está situado o estabelecimento permanente, poderão exercer o direito de tributar, sem prejuízo de, posteriormente, o Estado da residência aplicar as regras para eliminação da dupla tributação previstas nas convenções. O parágrafo 2 estipula o princípio da concorrência plena, ou seja, a imputação dos lucros ao estabelecimento permanente deve ter lugar nos Estados contratantes como se se tratasse de uma empresa distinta e

separada de sua sede. Enquanto a convenção modelo da OCDE restringe a aplicação deste artigo aos lucros que o estabelecimento estável obtenha, a convenção modelo da ONU estabelece que o lucro imputável ao estabelecimento estável não é apenas o resultante de suas atividades, mas, também, todos os resultados de suas transações e atividades realizadas no Estado contratante, quando similares ou mesmo tipo de atividade por ele realizadas. Não obstante o Brasil ser um país considerado em desenvolvimento, cujo o modelo de convenção da ONU lhe é mais favorável, adota-se em todas suas convenções o modelo OCDE, o que, de certa forma, retira o direito de tributar rendimentos gerados em seu território, cuja as atividades foram desenvolvidas por empresas sediadas no outro Estado contratante.

32. Ressalta-se, ainda, que tanto os parágrafos 2 e 3 da convenção modelo OCDE quanto os parágrafos 2 a 5 da convenção modelo ONU, do Artigo 7, são importantes instrumentos no combate ao indevido uso de *transfer pricing*, atribuindo aos Estados contratantes os poderes necessários para ajustar os lucros a serem tributados em seus territórios.

33. O Artigo 8 das convenções modelos é incorporado, com as devidas adaptações, em todas as convenções que o Brasil é um dos Estados contratantes. Trata-se de uma regra especial e, portanto, excepciona a tributação prevista no Artigo 7. No caso das convenções brasileiras, em razão da grande extensão territorial, ora o Artigo 8 pode tratar apenas da navegação marítima e aérea, como também da navegação fluvial, lacustre e do transporte terrestre internacional. Na maioria das convenções brasileiras, o lucro da exploração dessas atividades é tributado pelo Estado da direção efetiva da empresa responsável pelo tráfego internacional, como é o caso das convenções com Argentina, Áustria, Bélgica, Canadá, China, Dinamarca, Equador, Eslováquia, República Tcheca, Espanha, França, Hungria, Índia, Itália, México, Noruega, Países Baixos, Portugal, Suécia, Trinidad e Tobago, por fim, Venezuela. Todavia, em parte das convenções, o Estado de residência da empresa terá o direito de tributar, como ocorre nos acordos com África do Sul, Chile, Coréia do Sul, Finlândia, Japão, Peru e Turquia. Nas convenções celebradas com Israel, Rússia e Ucrânia, a regra de tributação é o local da direção efetiva da empresa, contudo, na ausência desta, será o Estado de sua residência. Excepcionalmente, no Artigo 8 da convenção Brasil-Filipinas há a previsão de que ambos os Estados contratantes possuem o direito de tributar as empresas de tráfego internacional. Neste caso, caberá ao Estado da

residência eliminar a dupla tributação, com as aplicações dos métodos previsto no Artigo 23 da referida convenção.

34. O Artigo 9 das convenções modelos, com redações muito similares, e seguido pelo Brasil em todas suas convenções, destaca a possibilidade de os Estados contratantes ajustarem o lucro tributável das empresas residentes, sempre que houver uma associação ou controle entre as empresas envolvidas na relação comercial, de tal forma que as condições obtidas neste relação não existiriam se as empresas fossem totalmente independentes uma da outra. Com relação ao modelo OCDE, em especial o parágrafo 1 do Artigo 9, o Brasil se reserva o direito de prever uma abordagem em sua legislação interna que faça uso de margens fixas derivado de práticas da indústria em conformidade com o princípio da concorrência plena.

35. Tratando-se da tributação de dividendos, as convenções modelos da ONU e da OCDE caminharam no decorrer dos anos praticamente com a mesma redação (Artigo 10), o que diferencia os modelos é, no caso do modelo ONU, o percentual de tributação está “em branco” para livre negociação dos Estados contratantes, enquanto no modelo OCDE são especificados os percentuais que se entendem adequados tributar os dividendos, nas hipóteses previstas nos itens “a” (5%) e “b” (15%) do parágrafo 2. O Brasil, em suas convenções, não adota a taxa de 5% indicada pela OCDE para as hipóteses previstas na alínea “a” do parágrafo segundo. A menor das alíquotas aplicadas pelo país é de 10%, sendo que em 21 dos acordos vigentes, os Estados contratantes adotam alíquota única de 15% para qualquer hipótese de distribuição de dividendos. Outrossim, não obstante a previsão do Artigo 10 que permite aos Estados contratantes tributarem a distribuição de lucros, não significa dizer que o são obrigados. A legislação fiscal brasileira, por exemplo, isenta os dividendos de tributação, sejam eles distribuídos para pessoas residentes no país ou no exterior. Logo, até que se altere a legislação interna, mesmo existindo previsão nas CDT’s em vigor, não haverá a tributação dos dividendos pelo Brasil.

36. Com relação aos juros, assim como os dividendos, as convenções modelos da ONU e da OCDE possuem praticamente a mesma redação (Artigo 11). No caso da ONU, o percentual de tributação está “em branco” para livre negociação dos Estados contratantes, enquanto no modelo OCDE é especificado um único percentual de 10% para o Estado da fonte tributar os juros. O Brasil adota em suas convenções, em regra, a taxa de 15% para a tributação dos juros, sendo que em alguns acordos há situações excepcionais que também permitem a tributação às taxas de 10% (Bélgica, Coréia do

Sul, Eslováquia, República Tcheca, Espanha, França, Hungria, Luxemburgo e Países Baixos), 12,5% (Japão) e 25% (Suécia).

37. Importante destacar a cláusula antiabuso prevista no parágrafo 6 do Artigo 11 das convenções modelos, e replicado em todas as convenções brasileiras. Esta regra dispõe que, em decorrência de relações especiais entre o devedor dos juros e o credor, eventual valor que exceder ao que seria usualmente aceito em uma relação com partes independentes deverá ser tributado de acordo com a lei interna de cada Estado contratante, observando-se as demais disposições da respectiva convenção. Note-se que para fins de aplicação desta regra, o conceito de pessoas ligadas por uma relação especial é mais amplo do que a previsão do Artigo 9, abrangendo toda e qualquer relação de interesse que dá lugar ao pagamento de juros, e não somente eventual relação jurídica entre as partes. Acerca da convenção modelo OCDE, o Brasil se reserva o direito de considerar multas por atraso de pagamento como juros para fins desse artigo, de acordo com sua legislação interna.

38. Segundo a convenção modelo OCDE, o Estado de residência tem o poder exclusivo de tributar os valores pagos a título de royalties, ou seja, o Estado onde está localizado o credor (recebedor dos royalties) seria o único apto a tributar. Por outro lado, a convenção modelo da ONU, seguido pelo Brasil em todas suas convenções, prevê a possibilidade tanto do Estado de residência do credor quanto o Estado da fonte dos royalties exercerem o poder de tributar o pagamento de tais valores. Caso os dois Estados exerçam seu poder, caberá ao Estado da residência eliminar a dupla tributação. As convenções brasileiras limitam a tributação dos royalties ao percentual de 15%, porém há exceções que permitem a tributação nos percentuais de 10% a 25%, a depender do caso.

39. A definição do termo “royalties” é muito semelhante entre as convenções modelos, porém a convenção modelo ONU inclui expressamente que a remuneração por filmes ou gravações utilizadas nas estações de rádio ou televisão se dá por meio do pagamento de royalties. As convenções brasileiras, com exceção do acordo celebrado com a França, adotam o modelo da ONU. Frise-se, também, que nas convenções brasileiras, com exceção do acordo com a Finlândia, será incluído na tributação dos royalties o uso e a concessão de uso de equipamentos industriais, comerciais e científicos. Não há, atualmente, esta previsão na convenção modelo OCDE (a qual foi excluída na revisão do modelo em 1992), porém ela se mantém na convenção modelo ONU. Os rendimentos decorrentes do uso de equipamentos

(aluguel), segundo a atual convenção modelo da OCDE, devem ser tributados de acordo com os demais Artigos da convenção. Todavia, no caso da convenção modelo OCDE, o Brasil se reserva ao direito de continuar a incluir na definição de royalties a receita derivada de locação de equipamentos industriais, comerciais ou científicos, previsto na redação da convenção modelo de 1977.

40. Com relação a convenção modelo da ONU, na revisão realizada no ano de 2017, foi acrescentado o Artigo 12-A para tratar da remuneração por prestação de serviços técnicos, diferenciando-os da remuneração dos royalties pelo fornecimento de know-how. Enquanto a remuneração dos royalties deriva da transmissão dos conhecimentos (know-how), os serviços técnicos são prestados pelo próprio fornecedor que, ao invés de transmitir seu conhecimento, irá ele próprio aplicá-los no trabalho. Por se tratar de recente alteração, as convenções brasileiras não possuem previsão semelhante ao Artigo 12-A da convenção modelo ONU.

41. Importante destacar que as convenções modelos, assim como todas as convenções brasileiras, possuem nos parágrafos finais das regras dos royalties disposição antiabuso, permitindo aos Estados contratantes aplicarem seu regime interno quando se verificar que, em virtude de relações especiais entre o devedor e o beneficiário dos royalties, o montante pago a título de royalties foi excessivo.

42. O Artigo 13, tanto do modelo OCDE quanto da ONU, inserido com certas modificações em todas as convenções brasileiras, regula a tributação sobre a mais-valia ou, de acordo com a legislação interna brasileira, sobre os “ganhos de capital”. Em regra, quando se trata de mais-valia decorrente da venda de bem imóvel, a tributação deve ocorrer no Estado da situação do bem. As convenções brasileiras assinadas com Argentina, Canadá e Equador, todavia, sem distinguir entre bens imóveis e móveis, estipula que ambos os Estados contratantes podem tributar de acordo com sua legislação interna a mais-valia. As convenções celebradas com África do Sul, Finlândia e Israel, preveem expressamente, não obstante as disposições do Artigo 6, que a alienação de quotas de empresas cujo ativo sejam bens imobiliários, que a tributação ocorrerá no local da situação dos imóveis.

43. Com relação a alienação de navios e aeronaves utilizados no tráfego internacional, regra geral, a tributação da mais-valia ocorrerá no local da sede ou direção efetiva da empresa, como previsto nas convenções modelo e na maioria da convenções de que o Brasil é signatário, com exceção dos acordos com a Coréia do Sul, Filipinas, Finlândia, Peru e Turquia, que preveem a tributação pelo Estado de que

a empresa for residente. O acordo celebrado com o Japão, por sua vez, prevê a isenção do imposto sobre a mais-valia sobre tais operações.

44. Com relação a mais-valia decorrente da alienação de bens móveis, a regra é a tributação por ambos os Estados contratantes, de acordo com as respectivas legislações internas. Apenas a convenção celebrada com o Japão prevê que a mais-valia decorrente da alienação de bens móveis deverão ser tributadas pelo Estado de residência do alienante.

45. A convenção celebrada com Israel dispõe que a mais-valia decorrente da alienação de quotas de uma sociedade serão tributadas pelo Estado da residência da empresa, todavia, o imposto não poderá exceder 15% do montante bruto de tais ganhos.

46. Sobre as atividades de caráter independente, como os profissionais liberais, por exemplo, a convenção modelo da ONU estabelece que a regra é a tributação dos rendimentos pelo Estado de residência. Todavia, se o profissional independente possuir uma base fixa ou permanecer mais de 183 dias no Estado que está prestando o serviço, este Estado poderá tributar seus rendimentos. Tal tributação foi retirada da convenção modelo da OCDE na revisão realizada no ano de 2000. De acordo com os comentários da convenção modelo da OCDE, referido artigo foi excluído pelo fato de não existir diferenças entre o conceito de estabelecimento permanente, utilizado no Artigo 7, e base fixa, utilizado no Artigo 14, ou como os lucros devem ser computados e calculados, de acordo com os Artigos 7 ou 14. Além disso, não havia clara distinção quando uma atividade deveria ser enquadrada no Artigo 14 ou no Artigo 7. Com isso, a exclusão do Artigo 14 implica na aplicação do Artigo 7. Todas as convenções brasileiras, inclusive a mais recente (Convenção Brasil-Rússia, 2017) possuem dispositivo que trata da tributação de profissionais independentes.

47. Com relação a tributação dos rendimentos de profissões dependentes, as convenções brasileiras, replicando tanto a convenção modelo da OCDE quanto da ONU, atribuem ao Estado em que a atividade é exercida o direito de tributar. Caso o Estado onde a atividade for exercida for diferente do Estado de residência do contribuinte, atendidos determinadas condições previstas nas convenções, ambos os Estados poderão tributar, cabendo ao Estado da residência eliminar a dupla tributação. Essas regras são excepcionadas quando o empregado trabalhar em navios e aeronaves utilizados no tráfego internacional, sendo que a tributação ocorrerá no Estado da sede

ou direção efetiva da empresa estiver situada. Nas convenções com Chile, Filipinas, Finlândia e Peru, esta regra é alterada, cabendo ao Estado da residência do empregado a tributação pelos rendimentos de trabalho exercido em aeronaves ou navios utilizados no tráfego internacional. Nas convenções com Dinamarca e Noruega também há uma exceção a essa tributação, quando o emprego é exercido em aeronave pertencente ou fretada pela *Scandinavian Airlines System*. Ainda com relação a convenção com a Noruega, há outra exceção ao trabalho em aeronaves brasileiras e norueguesas em geral. Nestes casos, o Estado da residência do beneficiário é responsável pela tributação. As convenções celebradas com Argentina, Chile, Peru e Venezuela, incluem qualquer *veículo* utilizado no tráfego internacional para fins de tributação, seja aeroviário, terrestre ou aquático.

48. O Artigo 16, parágrafo 1, tanto da convenção modelo OCDE quanto da ONU, é replicado em todas as convenções brasileiras. Este artigo prevê a tributação pelo Estado da residência da empresa que paga a remuneração dos conselheiros e diretores da empresa, independentemente de onde o serviço é realizado. Oportuno frisar que a tributação prevista nesse artigo se sobrepõe a tributação dos *rendimentos de emprego*, previsto no Artigo 15 das convenções modelo.

49. A convenção modelo da ONU de 1980 nasceu com a redação de seu Artigo 17 praticamente idêntico a convenção modelo da OCDE de 1977. Desde então, houve mínima alteração a esta norma, como, por exemplo, a substituição em inglês da palavra *sporstsmen* para *sportsperson*, para fins de adaptar a regra a igualdade de gênero. No Brasil, como já era utilizada a palavra *atleta* (sem gênero) para traduzir *sportsmen*, não houve alteração nas convenções. Registre-se que na redação da convenção modelo da OCDE de 1963 constava apenas a redação do parágrafo 1 do Artigo 17. Com isso, os artistas e atletas só poderiam ser tributados pelo Estado onde a atividade era exercida se a contratação e desenvolvimento da performance fosse realizada pessoalmente pelo próprio artista e/ou atleta. Contudo, não é incomum nessas atividades ocorrer a interposição de outras pessoas, físicas ou jurídicas, que podem ou não estar estabelecida em um dos Estados contratantes. Nestas situações, a redação prevista no Artigo 17, parágrafo 1, da convenção modelo OCDE de 1963 era insuficiente para permitir a tributação dos rendimentos, o que permitia a utilização de acordos de tributação para praticar abusos de elisão e evasão fiscais.

50. Dessa forma, a partir da revisão da convenção modelo da OCDE de 1977 foi inserido o parágrafo 2 ao Artigo 17. O referido parágrafo surgiu para conter abusos

na utilização de acordos de dupla tributação, pois evita que um artista ou atleta, se utilizando de uma terceira pessoa, física ou jurídica, deixe de recolher impostos em um dos Estados contratantes. As convenções celebradas com Argentina, França, Japão e Luxemburgo são acordos que não possuem a previsão da redação do parágrafo 2 das convenções modelo. Destaca-se que a convenção com Luxemburgo foi celebrada em 1979, logo, já era de conhecimento dos países a "nova" redação do Artigo 17 da convenção modelo OCDE de 1977. Mais curioso é a situação da convenção Brasil-Argentina, originalmente aprovada pelo Brasil em 1981 e, posteriormente, emendada no ano de 2018. Em todos estes casos, se um artista ou atleta, contratado por interposta pessoa, física ou jurídica, desenvolva sua atividade em determinado Estado contratante, não deverá ser aplicada a regra de tributação prevista no Artigo 17. As demais convenções brasileiras possuem em sua redação o citado parágrafo 2. Alguns destes acordos, ainda, preveem regras específicas para isentar ou alterar o local de tributação, quando os recursos utilizados para contratar o artista ou atleta advém de fundos públicos ou, também, quando os Governos dos Estados contratantes têm interesse em desenvolver um intercâmbio cultural entre os países.

51. Acerca do pagamento das pensões e outras remunerações similares, as convenções modelos possuem significativa diferença. Enquanto a convenção modelo da OCDE permite a tributação apenas pelo Estado da residência do beneficiário, o modelo ONU, desde sua primeira edição em 1980, estabelece que tanto o Estado da residência do beneficiário (parágrafo 1) quanto o Estado da fonte do benefício (parágrafos 1 e 2 – alternativas A e B) possuem o direito de tributar os rendimentos. As convenções brasileiras possuem basicamente três regras de tributação: tributação exclusiva pelo Estado da fonte do benefício; tributação por ambos os Estados contratantes (com ou sem limitação dos rendimentos); tributação exclusiva do Estado da residência do beneficiário. No modelo de tributação exclusiva do Estado da fonte, enquadram-se as convenções com África do Sul, Argentina, Áustria, Chile, Dinamarca, Equador, Filipinas, Noruega e Peru. No modelo de tributação em ambos os Estados Contratantes, seguindo a convenção modelo da ONU, encontram-se as convenções com Bélgica, Canadá, China, Coréia do Sul, Eslováquia, Espanha, Finlândia, Hungria, Índia, Israel, Itália, Luxemburgo México, Países Baixos, Portugal, República Tcheca, Rússia, Trinidad e Tobago, Turquia, Ucrânia e Venezuela. Todavia, em algumas destas convenções, há previsão de um poder primário de tributar atribuído ao Estado da fonte do rendimento, sempre que o montante bruto recebido exceda,

durante o ano fiscal, determinada soma em dinheiro. Por fim, no modelo de tributação do Estado da residência, em conformidade com a convenção modelo da OCDE, identifica-se as convenções com França e Japão.

52. O Artigo 19 das convenções modelos da OCDE e ONU trata da tributação de rendimentos pagos por um Estado contratante ou sua subdivisão política em decorrência de serviços que lhe tenham sido prestados. Em regra, a tributação se dará pelo Estado que contratou os serviços, independentemente de onde eles tenham sido prestados, com exceção às regras do parágrafo 1, item "b", e parágrafos 2 e 3. Todas as convenções brasileiras, com pequenas variações de redação, possuem a previsão de tributação do Artigo 19 das convenções modelos. A convenção que apresenta a maior diferenciação é a celebrada com o Japão, em que não há as ressalvas das regras do parágrafo 1, item "b", e parágrafos 2 e 3.

53. O Artigo 20 das convenções modelos OCDE e ONU trata da tributação de rendimentos recebidos a estudantes ou aprendizes para sua formação. Nesses casos, a tributação caberá ao Estado da fonte, desde que os rendimentos não provenham do Estado da residência. Oportuno mencionar que a grande maioria das convenções brasileiras possuem regra similar de tributação destinada aos professores e pesquisadores. As convenções com a Áustria, Canadá, Chile, Finlândia e Peru, são as únicas convenções brasileiras que seguem as convenções modelos OCDE e ONU, sem incluir tipo especial de tributação para os rendimentos de professores e pesquisadores. Todas as convenções brasileiras que possuem regra de tributação especial para professores e pesquisadores limitam o benefício a prazo não superior a dois anos, ou seja, a isenção de tributação no Estado de residência passará a ser permitida após esse prazo. Com relação a tributação dos estudantes e dos aprendizes, a maioria das convenções brasileiras também estabelece limites para usufruir do benefício, seja pela limitação do tempo e/ou do valor do rendimento.

54. O Artigo 21 das convenções modelos OCDE e ONU trata da tributação (residual) de rendimentos não previstos em outros artigos da convenção. O parágrafo 1 dispõe que cabe ao Estado da residência do beneficiário o poder de tributar. Todavia, se o beneficiário exercer atividade no outro Estado contratante através de um estabelecimento permanente ou base fixa, caberá a este outro Estado tributar os rendimentos. A convenção modelo da ONU inclui, ainda, o parágrafo 3, o qual atribui ao Estado da fonte a possibilidade de tributar quaisquer outros rendimentos originados em seu território, quando não previstos nos parágrafos 1 e 2. As convenções brasileiras

celebradas com África do Sul, Portugal, Turquia, Ucrânia e Venezuela, utilizam-se da mesma redação da convenção modelo ONU. Já as convenções com a Áustria e Finlândia utilizam a convenção modelo OCDE (versão a partir de 1977).

55. Todavia, na grande maioria das convenções brasileiras não se adotam as regras de tributação das convenções modelos OCDE e ONU, utilizando-se de duas formas de tributar: (i) atribui o poder de tributação apenas ao Estado da fonte ou (ii) atribui o poder de tributar a ambos os Estados contratantes, cabendo ao Estado da residência eliminar a dupla tributação. No primeiro grupo se encontram as convenções com Argentina, Canadá, Chile, China, Coréia do Sul, Equador, Eslováquia, República Tcheca, Filipinas, Hungria, Índia, Israel, México, Noruega, Países Baixos, Peru e Rússia. No segundo grupo encontram-se as convenções com Bélgica, Dinamarca, Espanha, Itália, Japão, Luxemburgo, Suécia e Trinidad e Tobago. Ressalta-se que na convenção Brasil-França não há previsão desta regra de tributação de outros rendimentos não previstos em artigos precedentes do acordo.

56. O Artigo 22 das convenções modelos OCDE e ONU prevê a regra da tributação das *fortunas*, portanto, não trata de outros elementos do capital (rendimentos ou ganhos) que são previstos em outros artigos da convenção. A Constituição Federal brasileira de 1988 estipula a possibilidade de o país instituir impostos sobre grandes fortunas, porém este poder nunca foi exercido pelo legislador. Logo, a maioria das convenções brasileiras não prevê a regra de tributação prevista no Artigo 22 das convenções modelos, com exceção das convenções com Argentina, Áustria, Luxemburgo e Noruega, que possuem redação similar aos modelos.

57. Com o objetivo de eliminar a dupla tributação, o Artigo 23 (A e B) das convenções modelos OCDE e ONU estipula os procedimentos que os Estados deverão adotar para que o contribuinte seja efetivamente tributado em apenas um dos Estados. Ao mesmo tempo, esse artigo permite aos Estados contratantes, em determinadas situações, computar rendimentos isentos para efeitos de determinação da taxa aplicável ao restante dos rendimentos do contribuinte. As convenções modelos indicam dois métodos para a eliminação da dupla tributação: método da isenção e o método de crédito. Em síntese, pelo método da isenção, o Estado da residência abdica de tributar o rendimento recebido no outro Estado contratante; já no método de crédito, o Estado da residência computa os rendimentos obtidos no outro Estado contratante para fins de cálculo do imposto devido em seu território, porém depois concede um crédito ao contribuinte do imposto pago no outro Estado contratante. Todas as convenções

brasileiras possuem artigo que trata de métodos a serem aplicados pelos Estados contratantes para eliminar a dupla tributação com a inclusão, ao menos, do método do crédito. Em determinadas situações há ainda a previsão da aplicação do método da isenção.

58. O Artigo 24 das convenções modelos da OCDE e ONU consagra o princípio do direito internacional da não discriminação aos contribuintes, independentemente de sua natureza ou designação. Em suma, a obediência a este princípio determina que os Estados contratantes não podem sujeitar estrangeiros, em situação idêntica a nacionais, "a nenhuma tributação ou obrigação com ela conexa mais gravosa" que os nacionais estariam obrigados. Todas as convenções brasileiras possuem dispositivo similar ao Artigo 24 das convenções modelos.

59. O Artigo 25 das convenções modelos OCDE e ONU estabelece o procedimento mútuo para solução de conflitos existentes em razão da divergência de aplicação das regras da convenção pelos Estados contratantes. A redação dos dispositivos supracitados é o presente na revisão dos respectivos modelos ocorrida em 2017, tanto para a OCDE quanto para a ONU. Nas edições anteriores, não havia a previsão existente no parágrafo 5 (no caso da ONU, no Artigo 25 – alternativa B). As convenções brasileiras, sem exceção, preveem o referido dispositivo, em redação similar as convenções modelos. Em alguns dos acordos, inclusive, com a possibilidade de os Estados contratantes formarem uma comissão para comunicação direta de seus representantes, como previsto na revisão das convenções modelos OCDE/1998 e ONU/2001. Neste ponto, portanto, possível observar que o país se encontra na vanguarda do direito fiscal internacional, com a finalidade de não apenas eliminar a dupla tributação jurídica internacional, mas também fornecer elementos aos Estados contratantes para combater a evasão e elisão fiscal.

60. O Artigo 26 das convenções modelos OCDE e ONU trata do regime de troca de informações entre os Estados contratantes com o objetivo de fiscalizar a aplicação das regras das convenções e evitar a dupla tributação. As convenções modelos da ONU e OCDE são muito semelhantes, embora a primeira inclua expressamente referência à prevenção da fraude e da evasão fiscal. Oportuno destacar que a aplicação do Artigo 26 das convenções modelos não exclui a obrigação dos Estados contratantes assumida em outros acordos internacionais sobre assistência mútua em matéria fiscal. Todas as convenções brasileiras possuem dispositivo sobre a troca de informações, adotando como regra geral redação similar as convenções

modelos OCDE/1963 e ONU/1980, exceção feita as convenções com Argentina, Chile, Índia, Peru, Portugal, Turquia e Venezuela, todas assinadas ou alteradas neste século XXI, as quais já incorporam em sua redação conteúdo semelhante, mesmo que pré-existente, as convenções modelos OCDE/2005 e ONU/2017.

61. O tema da assistência entre os Estados contratantes na cobrança de impostos é relativamente recente na redação das convenções modelos. A OCDE incluiu este artigo na revisão de seu modelo ocorrida em 2003, enquanto a ONU apenas o incluiu na recente revisão do ano de 2017. Os dois modelos de convenção possuem redação idêntica. Em síntese, esta regra estipula que os Estados contratantes devem se auxiliar mutuamente com o objetivo de recuperar créditos fiscais que são devidos, quando seja necessário a prática de atos de cobrança desse crédito no outro Estado contratante. Nenhuma das convenções bilaterais brasileiras de dupla tributação possui regra semelhante ao Artigo 27 das convenções modelos. Todavia, isso não significa dizer que o país não tenha se obrigado a assistência mútua na cobrança de créditos tributários. Isto, pois, na Seção II e seguintes da Convenção Multilateral Sobre Assistência Mútua Administrativa em Matéria Tributária, a qual o Brasil é signatário, estipula as regras de auxílio na cobrança de créditos tributários. Não obstante esta obrigação internacional assumida pelo país, a tendência, todavia, é que as futuras convenções bilaterais assinadas pelo país venham a ser celebradas com a inclusão do Artigo 27 presente nas convenções modelos, tendo em vista que em toda sua história o país tem seguido as diretrizes da OCDE e ONU no tocante a elaboração de acordo bilateral sobre dupla tributação.

62. O Artigo 28 das convenções modelos, cuja redação está presente em todos as convenções brasileiras, salvaguarda regra de tributação especial de membros de missões diplomáticas e postos consulares. Sobre o tema, destaca-se as Convenções de Viena de 1961 e 1963, que fixam um regime fiscal privilegiado para essas pessoas. Portanto, sempre que se tratar de tributação de membros de missões diplomáticas e postos consulares, será necessário observar as regras de tributação especial.

63. A última revisão da redação das convenções modelos OCDE e ONU, ambos realizadas em 2017, incluiu cláusula antiabuso de limitação dos benefícios previstos nos acordos de dupla tributação (Artigo 29), quando for identificado abuso praticado com o intuito de evadir ou elidir o pagamento de impostos nos Estados contratantes. Esse novo artigo faz parte de uma ação coordenada dos organismos internacionais na tentativa de evitar ou, ao menos, mitigar, práticas realizadas em

operações internacionais com o único objetivo de facilitar a erosão de receitas tributárias. A ação mais enfática para evitar a elisão e evasão fiscal está em desenvolvimento na OCDE, desde o início desta década, denominada de BEPS (sigla em inglês que significa Erosão da Base Tributável e Transferência de Lucros).

64. A limitação de benefícios a pessoas abrangidas por acordo de dupla tributação, tratada no Artigo 29 das convenções modelos, faz parte da ação 6 do BEPS ("abuso de tratados fiscais"). Em síntese, essa regra possui inspiração na cláusula geral antiabuso baseada no princípio do "*principal purpose test"* (objeto principal dos negócios). Ou seja, por essa regra um benefício previsto em um acordo de dupla tributação não deve ser concedido a uma pessoa abrangida pela convenção se for razoável concluir que a obtenção do benefício foi o objetivo principal da operação tributável, e que a obtenção desse benefício não está de acordo com o objetivo e finalidade das disposições da convenção de dupla tributação.

65. Nenhuma das convenções brasileiras possui redação semelhante ao Artigo 29 das convenções modelos. Entretanto, oportuno destacar que as convenções com Argentina, México, Rússia, Venezuela, Trinidad e Tobago e Turquia, já possuem regra que prevê a limitações de benefícios ao abrigo dos referidos acordos. Enquanto a regra prevista nestas duas últimas convenções é de certa forma simples e genérica, limitando a aplicação da convenção quando as autoridades competentes dos Estados contratantes entenderem que o benefício obtido por uma pessoa abrangida constituiria abuso ao tratado, as demais convenções em que constam a cláusula de limitação de benefícios podem ser consideradas um embrião da regra previsto no Artigo 29 das convenções modelos.

66. A convenção modelo OCDE prevê em seu Artigo 30 (na versão redigida em 2017) que os Estados contratantes poderão alargar o âmbito de aplicação do acordo de dupla tributação a qualquer Estado ou território que sejam responsáveis. Essa regra não encontra previsão na convenção modelo ONU. Apenas as convenções brasileiras assinadas com Dinamarca, França e Noruega possuem regra semelhante ao Artigo 30 da convenção modelo OCDE. As demais convenções vigentes não possuem essa regra.

67. Os dois últimos artigos das convenções modelos, Artigos 30 e 31 da convenção modelo ONU e Artigos 31 e 32 da convenção modelo OCDE, tratam do aspecto temporal de aplicação dos acordos. Todas as convenções brasileiras possuem estas duas regras em sua redação. O primeiro dos artigos estabelecerá o momento em que o tratado terá vigência para os Estados contratantes. Oportuno mencionar que os

Estados contratantes podem estabelecer datas de início do vigor da convenção diferentes entre si. Já o segundo artigo estabelece o momento em que o acordo deixará de produzir efeitos. Regra geral, as convenções modelos indicam a necessidade de se estabelecer um "prazo mínimo" de vigência de 06 meses, após a denúncia do acordo, para que tanto os Estados contratantes quanto as pessoas afetadas pelo acordo de dupla tributação possam se adequar à nova realidade que será enfrentada. Nas convenções brasileiras há dois tipos de redação da regra para estabelecer este mesmo prazo de 06 meses de vigência: (i) notificação com 06 meses de antecedência do final do ano calendário; ou (ii) notificação até o dia 30 de junho, inclusive, do ano calendário.

68. Por fim, as convenções brasileiras celebradas com Dinamarca, Espanha e Luxemburgo, além de todas as regras anteriormente tratadas, estabelecem uma regra especial em que as autoridades competentes dos Estados Contratantes estabelecerão, de comum acordo, os métodos de aplicação da convenção. Não obstante, não se tem notícia de que os países envolvidos nos respectivos acordos tenham exercido este direito.

Bibliografia

BAKER, Philip. *Double Taxation Conventions and International Law*, Sweet & Maxwell, 1994.

BARENFELD, Jesper. *Taxation of Cross-Border Partnerships*, IBFD, vol. 09, 2005.

BOWER, Sir Frank. *Tax Problems and the Development of International Trade and Commerce*, International Bureau of Fiscal Administration, Amsterdam, 1966.

BRÁS, Carlos. *Sociedades de Profissionais: Nota sobre a Circular 8/90 da DGCI*, Fisco nº 19, de abril de 1990.

BURG, David F. *A World History of Tax Rebellions*, Editora Routedge, 2004.

CÂMARA, Francisco de Souza. *A Dupla Residência das Sociedades à Luz das Convenções de Dupla Tributação*. In: Planeamento e Concorrência Fiscal Internacional, Associação Portuguesa de Consultores Fiscais, 2003.

COURINHA, Gustavo Lopes. *A Residência no Direito Internacional Fiscal*, Ed. Almedina, 2015.

COURINHA, Gustavo Lopes. *Da Tributação do Software nas Convenções de Dupla Tributação Celebradas por Portugal, à Luz das Alterações de 2008 aos Comentários da Convenção Modelo da OCDE*. In: Fiscalidade Revista de Direito e Gestão Fiscal, Edição Trimestral (Janeiro-Março 2009).

COURINHA, Gustavo Lopes. *Estudos de Direito Internacional Fiscal*, AAFDL Editora, 2015.

DOURADO, Ana Paula. *Governação Fiscal Global*, Ed. Almedina, 2017.

FERREIRA, Eduardo Paz; TORRES, Heleno Taveira; PALMA, Clotilde Celorico (Organizadores). *Estudos em Homenagem ao Professor Doutor Alberto Xavier*, Editora Almedina.

FERREIRA, Rogério M. Fernandes; SOUZA, Jorge Lopes. *Um Novo Paradigma Multilateral nas Convenções de Dupla Tributação*. In: Vida Judiciária, nº 199, janeiro/fevereiro 2017.

FIGUEIRAS, Cláudia Sofia Melo; FONSECA, Isabel Celeste M.; ROCHA, Joaquim Freitas da; FROUFE, Pedro Madeira (Organizadores). *Estudos em Homenagem ao Professor Doutor António Cândido de Oliveira*, Editora Almedina, 2017.

GRAETZ, Michael J. *The Decline [and Fall?] of the Income Tax*, W.W. Norton, 1997.

GREVE, Michael S. *Sell Globally Tax Locally – Sales Tax Reform for the New Economy*, AEI Press, 2003.

HOUTTE, Jean Van. *Principles of Interpretation in Internal and International Tax Law*, International Bureau of Fiscal Documentation, Amsterdam, 1968.

HUFBAUER, Gary Clyde; KIM, Jisun. *International Tax Competition: tree big issues*. In: Revista de Finanças Públicas e Direito Fiscal, ano I, agosto de 2008, Ed. Almedina.

JONES, J.F. Avery (Editor). *Tax Havens and Measures Against Tax Evasion and Avoidance in the EC*, Associated Business Programmes, London, 1974.

LANG, Michael (Coord.). *Avoidance of Double Non-Taxation*, Editora Lindeverlag, 2003.

MAISTO, Guglielmo (Editor). *Multilingual Texts and Interpretation of Tax Treaties and EC Tax Law*, vol. 01, IBFD, 2005.

MARQUES, Rui. *"Google Tax": Mau tempo no Canal*. In: Revista de Finanças Públicas e Direito Fiscal, ano X, janeiro de 2017, Ed. Almedina.

MENÉNDEZ, Augustín José. *Justifying Taxes – Some Elements for a General Theory of Democratic Tax Law*, Kluwer Academic Publishers, 2001.

MESQUITA, Maria Margarida Cordeiro. *As Convenções sobre Dupla Tributação*, Centro de Estudos Fiscais, Lisboa, 1998.

MORAIS, Rui Duarte. *A Residência e as Convenções de Dupla Tributação*. In: Revista de Finanças Públicas e Direito Fiscal, ano II, julho de 2009, Ed. Almedina.

MORSE, Geoffrey; WILLIAMS, David; SALTER, David. *Principles of Tax Law*, 3ª edição, Sweet & Maxwell, 1996.

OECD. *Draft Double Taxation Convention on Income and on Capital*, OECD Publishing, 1963.

OECD. *Model Tax Convention on Income and on Capital: Condensed Version 1997*, OECD Publishing, 1997.

OECD. *Model Tax Convention on Income and on Capital: Condensed Version 1992*, OECD Publishing, 1992.

OECD. *Model Tax Convention on Income and on Capital: Condensed Version 1998*, OECD Publishing, 1998.

OECD. *Model Tax Convention on Income and on Capital: Condensed Version 2000*, OECD Publishing, 2000.

OECD. *Model Tax Convention on Income and on Capital: Condensed Version 2003*, OECD Publishing, 2003.

OECD *Model Tax Convention on Income and on Capital: Condensed Version 2005*, OECD Publishing, 2005.

OECD. *Model Tax Convention on Income and on Capital: Condensed Version 2008*, OECD Publishing, 2008.

OECD. *Model Tax Convention on Income and on Capital: Condensed Version 2010*, OECD Publishing, 2010.

OECD. *Model Tax Convention on Income and on Capital: Condensed Version 2014*, OECD Publishing, 2014.

OECD. *Model Tax Convention on Income and on Capital: Condensed Version 2017*, OECD Publishing, 2017.

PALMEIRA, Carla. *O Estabelecimento Estável nas Convenções Modelo da OCDE e da ONU*. In: Miscelâneas, nº 04, Ed. Almedina, Março de 2006.

PEREIRA, Paula Rosado. *A Dupla Tributação Jurídica Internacional e o papel das Convenções para Evitar a Dupla Tributação*. In: Fiscalidade, nº 29, janeiro/março 2007.

PEREIRA, Paula Cristina dos Santos Rosado. *Convenções Sobre Dupla Tributação e Direito Comunitário Tributário*. Tese de doutoramento na Universidade de Lisboa – Faculdade de Direito, 2009.

PISTONE, Pasquale. *The Impact of Community Law on Tax treaties: Issues and Solutions*, EUCOTAX Series on European Taxation, 2002.

RAAD, Klaus van. *1963 and 1977 OECD Model of Income Tax Treaties and Commentaries*, 2nd edition, Kluwer Law ad Taxation publishers, 1990.

RAAD, Klaus van. *Materials on International & EC Tax Law*. 4ª edição, vol. 01, International Tax Center Leiden, 2004.

RACHETER, Donald P.; WAGNER, Richard E. (Editores). *Politics, Taxation, and the Rule of Law: The Power to Tax in Constitutional Perspective*, Kluwer Academic Publishers, 2002.

REIMER, Ekkehart; RUST, Alexander (Editores). *Klaus Vogel on Double Taxation Conventions*, 4ª edição, Wolters Kluwer, 2015.

SANTIAGO, Igor Mauler. *Direito Tributário Internacional*, Quartier Latin, 2006.

SHAVIRO, Daniel N. *Corporate Tax Shelters in a Global Economy*, AEI Press, 2004.

SKAAR, Arvid A. *Permanent Establishment – Erosion of a Tax Treaty Principle*, Kluwer Law and Taxation Publishers, 1991.

SMITH, Dan Throop. *Tax Legislation in Capital-Exporting Countries to Encourage Investment in Less Developed Countries*, International Bureau of Fiscal Administration, Amsterdam, 1966.

UN. *United Nations Model Double Taxation Convention between Developed and Developing Countries*, Department of Economic & Social Affairs, New York, 1980.

UN. *United Nations Model Double Taxation Convention between Developed and Developing Countries*, Department of Economic & Social Affairs, New York, 1997.

UN. *United Nations Model Double Taxation Convention between Developed and Developing Countries*, Department of Economic & Social Affairs, New York, 2001.

UN. *United Nations Model Double Taxation Convention between Developed and Developing Countries 2017 Update*, Department of Economic & Social Affairs, New York, 2018.

VALADAO, Marcos. *Income Tax Treaties and the Treatment of Dividends Received by Foreigner Shareholders from Domestic Corporations under as Integrated System (without the Double Level of Taxation)*, North Carolina Journal of International Law and Commercial Regulation, vol. 29, number 3, 2004.

VOGEL, Klaus. *Double Tax Treaties and Their Interpretation*, Berkeley Journal of International Law, 1986.

XAVIER, Alberto. *Direito Tributário Internacional*, 2ª edição atualizada, Ed. Almedina, 2017.

ZÜGER, Mario; AIGNER, Hans-Jörgen. *Permanent Establishments in International Tax Law*, Lidevarlag, 2010.

WATTEL, Peter J.; MARRES, Otto; VERMEULEN, Hein (Editores). *European Tax Law*, 7ª edição, Wolters Kluwer, 2019.

WEBER, Dennis. *Tax Avoidance and the EC Treaty Freedoms – A Study of the Limitations under European Law to the Prevention of Tax Avoidance*, Kluwer International Law, 2005.

Legislação

CDT Brasil-África do Sul. Promulgada pelo Decreto 5.922, de 03 de outubro de 2006. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/africa-do-sul/decreto-no-5-922-de-3-de-outubro-de-2006 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Argentina. Promulgada pelo Decreto 9.482, de 27 de agosto de 2018. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/argentina/decreto-no-9-482-de-27-de-agosto-de-2018 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Áustria. Promulgada pelo Decreto 78.107, de 22 de julho de 1976. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/austria/decreto-no-78-107-de-22-de-julho-de-1976 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Bélgica. Promulgada pelo Decreto 6.332, de 28 de dezembro de 2007. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/belgica/decreto-no-6-332-de-28-de-dezembro-de-2007 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Canadá. Promulgada pelo Decreto 92.318, de 23 de janeiro de 1986. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/canada/decreto-no-92-318-de-23-de-janeiro-de-1986 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Chile. Promulgada pelo Decreto 4.852, de 02 de outubro de 2003. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/chile/decreto-ndeg-4-852-de-2-de-outubro-de-2003 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-China. Promulgada pelo Decreto 762, de 19 de fevereiro de 1993. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/china/decreto-ndeg-762-de-19-de-fevereiro-de-1993 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Coréia do Sul. Promulgada pelo Decreto 354, de 02 de dezembro de 1991. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/coreia-do-sul/decreto-no-354-de-2-de-dezembro-de-1991 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Dinamarca. Promulgada pelo Decreto 75.106, de 20 de dezembro de 1974. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/dinamarca/decreto-no-75-106-de-20-de-dezembro-de-1974 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Equador. Promulgada pelo Decreto 95.717, de 11 de fevereiro de 1988. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/equador/decreto-no-95-717-de-11-de-fevereiro-de-1988 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Eslováquia e Brasil-República Tcheca. Promulgada pelo Decreto 43, de 25 de fevereiro de 1991. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/Eslovaquia/decreto-no-43-de-25-de-fevereiro-de-1991 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Espanha. Promulgada pelo Decreto 76.975, de 02 de fevereiro de 1976. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/espanha/decreto-no-76-975-de-2-de-janeiro-de-1976 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Filipinas. Promulgada pelo Decreto 241, de 25 de fevereiro de 1991. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/filipinas/decreto-ndeg-241-de-25-de-fevereiro-de-1991 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Finlândia. Promulgada pelo Decreto 2.465, de 19 de janeiro de 1998. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/finlandia/decreto-no-2-465-de-19-de-janeiro-de-1998 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-França. Promulgada pelo Decreto 70.506, de 12 de maio de 1972. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/franca/decreto-no-70-506-de-12-de-maio-de-1972 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Hungria. Promulgada pelo Decreto 53, de 08 de março de 1991. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/hungria/decreto-no-53-de-8-de-marco-de-1991 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Índia. Promulgada pelo Decreto 510, de 27 de abril de 1992 e alterada pelo Decreto 9.219, de 04 de dezembro de 2017. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/india/decreto-no-510-de-27-de-abril-de-1992 e http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/india/decreto-no-9.219-de-4-de-dezembro-de-2017 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Israel. Promulgada pelo Decreto 5.576, de 08 de dezembro de 2005. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/israel/decreto-no-5-576-de-8-de-novembro-de-2005 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Itália. Promulgada pelo Decreto 85.985, de 06 de maio de 1981. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/italia/decreto-no-85-985-de-6-de-maio-de-1981 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Japão. Promulgada pelo Decreto 61.899, de 14 de dezembro de 1967, e alterada pelo Decreto 81.194, de 09 de janeiro de 1978. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/japao/decreto-no-61-899-de-14-de-dezembro-de-1967 e http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/japao/decreto-no-81-194-de-9-de-janeiro-de-1978 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Luxemburgo. Promulgada pelo Decreto 85.051, de 18 de agosto de 1980. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/luxemburgo/decreto-no-85-051-de-18-de-agosto-de-1980 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-México. Promulgada pelo Decreto 6.000, de 26 de dezembro de 2006. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/mexico/decreto-no-6-000-de-26-de-dezembro-de-2006 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Noruega. Promulgada pelo Decreto 86.710, de 09 de dezembro de 1981. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/noruega/decreto-no-86-710-de-09-de-dezembro-de-1981 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Países Baixos. Promulgada pelo Decreto 355, de 02 de dezembro de 1991. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/paises-baixos/decreto-no-355-de-2-de-dezembro-de-1991 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Peru. Promulgada pelo Decreto 7.020, de 27 de novembro de 2009. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/peru/decreto-no-7-020-de-27-de-novembro-de-2009 . Acesso em 18 de dezembro de 2020.

CDT Brasil-Portugal. Promulgada pelo Decreto 4.012, de 13 de novembro de 2001. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/portugal/decreto-no-4-012-de-13-de-novembro-de-2001 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Rússia. Promulgada pelo Decreto 9.115, de 31 de julho de 2017. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/russia/decreto-no-9-115-de-31-de-julho-de-2017 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Suécia. Promulgada pelo Decreto 77.053, de 19 de janeiro de 1976. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/suecia/decreto-no-77-053-de-19-de-janeiro-de-1976 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Trinidad e Tobago. Promulgada pelo Decreto 8.335, de 12 de novembro de 2014. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/trinidad-e-tobago/decreto-no-8-335-de-12-de-novembro-de-2014 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Turquia. Promulgada pelo Decreto 8.140, de 14 de novembro de 2013. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/turquia/decreto-no-8-140-de-14-de-novembro-de-2013 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Ucrânia. Promulgada pelo Decreto 5.799, de 07 de junho de 2006. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-internacionais/acordos-para-evitar-a-dupla-tributacao/ucrania/decreto-no-5-799-de-7-de-junho-de-2006 . Acesso em 18 de fevereiro de 2020.

CDT Brasil-Venezuela. Promulgada pelo Decreto 8.336, 12 de novembro de 2014. Disponível em: http://receita.economia.gov.br/acesso-rapido/legislacao/acordos-

internacionais/acordos-para-evitar-a-dupla-tributacao/venezuela/decreto-no-8-335-de-12-de-novembro-de-2014 . Acesso em 18 de fevereiro de 2020.

Código Tributário Nacional (Brasileiro). Lei 5.172, de 25 de outubro de 1966. Disponível em: http://www.planalto.gov.br/ccivil_03/Leis/L5172.htm . Acesso em 18 de fevereiro de 2020.

Convenção de Viena sobre Relações Consulares. Promulgada pelo Decreto 61.078, de 26 de julho de 1967. Disponível em: http://www.planalto.gov.br/ccivil_03/decreto/D61078.htm . Acesso em 18 de fevereiro de 2020.

Convenção de Viena sobre Relações Diplomáticas. Promulgada pelo Decreto 56.435, de 08 de junho de 1965. Disponível em: http://www.planalto.gov.br/ccivil_03/decreto/Antigos/D56435.htm . Acesso em 18 de fevereiro de 2020.

Convenção Multilateral sobre Assistência Mútua em Matéria Fiscal. Promulgada pelo Decreto 8.842, de 29 de agosto de 2016. Disponível em: http://www.planalto.gov.br/CCIVIL_03/_Ato2015-2018/2016/Decreto/D8842.htm . Acesso em 18 de fevereiro de 2020.

Constituição Federal do Brasil de 1988. Disponível em: http://www.planalto.gov.br/ccivil_03/Constituicao/Constituicao.htm . Acesso em 18 de fevereiro de 2020.

Tributação dos dividendos, Artigo 10 da Lei 9.249, de 26 de dezembro de 1995. Disponível em: http://www.planalto.gov.br/ccivil_03/Leis/L9249.htm . Acesso em 18 de fevereiro de 2020.

Anexo I – Comparativo de alíquotas de Dividendos, Juros e Royalties nas convenções brasileiras

País	Diploma Legal	Dividendos (Artigo 10)	Juros (Artigo 11)	Royalties (Artigo 12)
Modelo CDT OCDE/2017		5% (c) 15% (b)	10%	
África do Sul	Aprovada pelo Decreto Legislativo nº 301/2006; Promulgada pelo Decreto nº 5.922/2006	10% (d) 15% (b)	15%	15% (e) 10% (b)
Argentina	Aprovada pelo Decreto Legislativo nº 74/1981; Promulgada pelo Decreto nº 87.976/1982; Aprovada emenda pelo Decreto Legislativo nº 136/2018; Promulgada emenda pelo Decreto nº 9.482/2018	10% (c) 15% (b)	15%	15% (e) 10% (b)
Áustria	Aprovada pelo Decreto Legislativo nº 95/1975; Promulgada pelo Decreto nº 78.107/1976	15%	15%	10% (f) 25% (e) 15% (b)
Bélgica	Aprovada pelo Decreto Legislativo nº 76/1972; Promulgada pelo Decreto nº 72.542/1973; Promulgada emenda pelo Decreto nº 6.332/2007	10% (g) 15% (b)	15% (b) 10% (h)	10% (f) 20% (e) 15% (b)

Canadá	Aprovada pelo Decreto Legislativo nº 28/1985; Promulgada pelo Decreto nº 92.318/1986	15%	10% (i) 15% (b)	25% (e) 15% (b)
Chile	Aprovada pelo Decreto Legislativo nº 331/2003; Promulgada pelo Decreto nº 4.852/2003	10% (j) 15% (b)	15%	15%
China	Aprovada pelo Decreto Legislativo nº 85/1992; Promulgada pelo Decreto nº 762/1993	15%	15%	25% (e) 15% (b)
Coréia do Sul	Aprovada pelo Decreto Legislativo nº 205/1991; Promulgada pelo Decreto nº 354/1991	15%	l0% (k) 15% (b)	25% (e) 15% (b)
Dinamarca	Aprovada pelo Decreto Legislativo nº 90/1974; Promulgada pelo Decreto nº 75.106/1974	25%	15%	25% (e) 15% (b)
Equador	Aprovada pelo Decreto Legislativo nº 4/1986; Promulgada pelo Decreto nº 95.717/1988	15%	15%	25% (e) 15% (b)
Eslováquia/Rep. Tcheca	Aprovada pelo Decreto Legislativo nº11/1990 ; Promulgada pelo Decreto nº 43/1991	15%	10% (l) 15% (b)	25% (e) 15% (b)

Espanha	Aprovada pelo Decreto Legislativo nº 62/1975; Promulgada pelo Decreto nº 76.975/1976	15%	15% (b) 10% (m)	10% (n) 15% (b)
Filipinas	Aprovada pelo Decreto Legislativo nº 198/1991; Promulgada pelo Decreto nº 241/1991	15% (o) 25% (b)	15%	25% (p) 15% (b)
Finlândia	Aprovada pelo Decreto Legislativo nº 35/1997; Promulgada pelo Decreto nº 2.465/1998	10%	15%	10% (n) 25% (e) 15% (b)
França	Aprovada pelo Decreto Legislativo nº 87/1971; Promulgada pelo Decreto nº 70.506/1972	15%	15% (b) 10% (h)	10% (n) 25% (e) 15% (b)
Hungria	Aprovada pelo Decreto Legislativo nº 13/1990; Promulgada pelo Decreto nº 53/1991	15%	10% (q) 15% (b)	25% (e) 15% (b)
Índia	Aprovada pelo Decreto Legislativo nº 214/1991; Promulgada pelo Decreto nº 510/1992; Aprovada emenda pelo Decreto Legislativo nº 81/2017; Promulgada emenda pelo Decreto nº 9.219/2017	15%	15%	25% (e) 15% (b)

Israel	Aprovada pelo Decreto Legislativo nº 931/2005; Promulgada pelo Decreto nº 5.576/2005	10% (r) 15 (b)	15%	15% (e) 10 (b)
Itália	Aprovada pelo Decreto Legislativo nº 77/1979; Promulgada pelo Decreto nº 85.985/1981	15%	15%	25% (e) 15% (b)
Japão	Aprovada pelo Decreto Legislativo nº 43/1967; Promulgada pelo Decreto nº 61.899/1967; Aprovada emenda pelo Decreto Legislativo nº 69/1976; Promulgada emenda pelo Decreto nº 81.194/1978	12,5% (Artigo 9)	12,5% (Artigo 10)	25% (e) 15% (s) 12,5% (b) (Artigo 11)
Luxemburgo	Aprovada pelo Decreto Legislativo nº 78/1979; Promulgada pelo Decreto nº 85.051/1980	15% (g) 25% (b)	15% (b) 10% (t)	25% (p) 15% (b)
México	Aprovada pelo Decreto Legislativo nº 58/2006; Promulgada pelo Decreto nº 6.000/2006	10% (u) 15% (b)	15%	15%
Noruega	Aprovada pelo Decreto Legislativo nº 50/1981; Promulgada pelo Decreto nº 86.710/1981	15%	15%	25% (p) 15% (b)

Países Baixos	Aprovada pelo Decreto Legislativo nº 60/1990; Promulgada pelo Decreto nº 355/1991	15%	10% (k) 15% (b)	25% (e) 15% (b)
Peru	Aprovada pelo Decreto Legislativo nº 500/2009; Promulgada pelo Decreto nº 7.020/2009	10% (v) 15% (b)	15%	15%
Portugal	Aprovada pelo Decreto Legislativo nº 188/2001; Promulgada pelo Decreto nº 4.012/2001	10% (w) 15% (b)	15%	15%
Rússia	Aprovada pelo Decreto Legislativo nº 80/2017; Promulgada pelo Decreto nº 9.115/2017	10% (x) 15% (b)	15%	15%
Suécia	Aprovada pelo Decreto Legislativo nº 93/1975; Promulgada pelo Decreto nº 77.053/1976; Aprovada emenda pelo Decreto Legislativo nº 57/1997	15% (y) 25% (b)	25% (z) 15% (b)	25% (e) 15% (b)
Trinidad e Tobago	Aprovada pelo Decreto Legislativo nº 1/2011; Promulgada pelo Decreto nº 8.335/2014	10% (aa) 15% (b)	15%	15%
Turquia	Aprovada pelo Decreto Legislativo nº 248/2012; Promulgada pelo Decreto nº 8.140/2013	10% (a) 15% (b)	15%	15% (e) 10% (b)

Ucrânia	Aprovada pelo Decreto Legislativo nº 66/2006; Promulgada pelo Decreto nº 5.799/2006	10% (a) 15% (b)	15%	15%
Venezuela	Aprovada pelo Decreto Legislativo nº 559/2010; Promulgada pelo Decreto nº 8.336/2014	10% (ab) 15% (b)	15%	15%

NOTAS:

(a) se o beneficiário efetivo for uma sociedade (com exceção de uma sociedade de pessoas) que detenha, diretamente, pelo menos, 25% do capital da sociedade que paga os dividendos.
(b) em todos os outros casos.
(c) se o beneficiário efetivo for uma empresa que detém diretamente pelo menos 25% do capital da empresa que está pagando os dividendos por um período de 365 dias que inclui o dia do pagamento do dividendo (para efeitos de cálculo desse período, não devem ser tomadas as alterações de propriedade que resultaria diretamente de uma reorganização societária, como uma fusão ou cisão, da empresa que detém as ações ou que paga o dividendo).
(d) se o beneficiário efetivo for uma sociedade que detiver pelo menos 25 por cento do capital da sociedade que pagar os dividendos.
(e) provenientes do uso ou da concessão do uso de marcas de indústria ou de comércio.
(f) provenientes do uso ou da concessão do uso de um direito de autor sobre uma obra literária, artística ou científica, excluídos os de filmes cinematográficos, filmes ou fitas de gravação de programas de televisão ou radiodifusão.
(g) se o beneficiário efetivo é uma sociedade que detém diretamente ao menos 10% do capital da sociedade que paga os dividendos.
(h) no que se refere aos juros dos empréstimos e créditos concedidos, por um período mínimo de 7 anos, pelos estabelecimentos bancários com participação de um organismo público de financiamento especializado e ligados à venda de bens de equipamento ou ao estudo, à instalação ou ao fornecimento de complexos industriais ou científicos, assim como de obras públicas.
(i) juros provenientes do Brasil e pagos a um residente do Canadá em razão de um empréstimo garantido ou segurado por um período mínimo de 7 anos pela "*Export Development Corporation of Canada*".
(j) se o beneficiário efetivo for uma sociedade que controle, direta ou indiretamente, pelo menos 25% das ações com direito a voto da sociedade que pague tais dividendos.
(k) se o beneficiário for um banco e o empréstimo for concedido por um período de, no mínimo, 7 anos, relacionado com a compra de equipamento industrial ou com estudo, a compra e a instalação de unidades industriais ou científicas, assim como o financiamento de obras públicas.
(l) juros de empréstimos e créditos concedidos por banco, por um período de no mínimo 10 anos, ligados à venda de equipamentos industriais ou ao estudo, à instalação ou ao fornecimento de unidades, industriais ou científicas, assim como a obras públicas.
(m) os juros pagos a instituições financeiras de um Estado Contratante em decorrência de empréstimos e créditos concedidos por um prazo mínimo de 10 anos e com o objetivo de financiar a aquisição de bens de equipamento.
(n) royalties pagos pelo uso ou pela concessão do uso de direito de autor sobre obras literárias, artísticas ou científicas (inclusive os filmes cinematográficos, filmes ou fitas de gravação de programas de televisão ou radiodifusão, quando produzidos por um residente de um dos Estados contratante).
(o) se o beneficiário for uma sociedade, incluindo uma sociedade de pessoas.
(p) royalties provenientes do uso da concessão do uso de marcas de indústria ou comércio e de filmes cinematográficos, filmes ou fitas de gravação de programas de televisão ou radiodifusão.
(q) juros de empréstimos e créditos concedidos por um banco, por um período de no mínimo 8 anos, ligados à venda de equipamentos industriais ou ao estudo, à instalação ou ao fornecimento de unidades industriais ou científicas, assim como a obras públicas.
(r) se o beneficiário efetivo detiver diretamente pelo menos 25% do capital da sociedade que paga os dividendos.
(s) royalties provenientes do uso ou da concessão do uso de direito de autor sobre filmes cinematográficos e filmes ou fitas de gravação de programas de radiodifusão ou televisão.
(t) juros de empréstimos e créditos concedidos, por um período de no mínimo 7 anos, por estabelecimentos bancários e relacionados à venda de bens de capital ou ao estudo, à instalação ou ao fornecimento de conjuntos industriais ou científicos, assim como de obras públicas.
(u) se o beneficiário efetivo é uma sociedade que seja proprietária de pelo menos 20% das ações com direito a voto da sociedade que paga tais dividendos.
(v) se o beneficiário efetivo for uma sociedade que controle, direta ou indiretamente, pelo menos 20% das ações com direito a voto da sociedade que pague os dividendos.
(w) se o seu beneficiário efetivo for uma sociedade que detenha, diretamente, pelo menos 25% do capital da sociedade que paga os dividendos, durante um período ininterrupto de 2 (dois) anos antes do pagamento dos dividendos.
(x) se o beneficiário efetivo detiver diretamente pelo menos 20% do capital total da sociedade que pagar os dividendos.
(y) se o beneficiário for uma sociedade (excluindo-se as sociedades de pessoas).
(z) se o beneficiário for uma pessoa física ou uma sociedade de pessoas.

(aa) se o beneficiário efetivo for uma sociedade que detém direta ou indiretamente pelo menos 25% do capital da sociedade que paga os dividendos.
(ab) se o beneficiário efetivo for uma sociedade (que não seja uma sociedade de pessoas) que controle, direta ou indiretamente, pelo menos 20% do capital da sociedade que pague os dividendos.

Anexo II – Convenções modelos de dupla tributação da ONU de 1980, 1997, 2001 e 2017[68]

Modelo CDT ONU/1980	Modelo CDT ONU/1997	Modelo CDT ONU/2001	Modelo CDT ONU/2017
Convention between (State A) and (State B) for avoidance of double taxation with respect to taxes on income [and on capital].	Convention between (State A) and (State B) for avoidance of double taxation with respect to taxes on income [and on capital].	Convention between (State A) and (State B) with respect to taxes on income and on capital	Convention between (State A) and (State B) for the elimination of double taxation with respect to taxes on income and capital and the prevention of tax avoidance and evasion
PREAMBLE OF THE CONVENTION	PREAMBLE OF THE CONVENTION	PREAMBLE OF THE CONVENTION	(State A) and (State B), Desiring to further develop their economic relationship and to enhance their cooperation in tax matters, Intending to conclude a Convention for the elimination of double taxation with respect to taxes on income and on capital without creating opportunities for non-taxation or reduced taxation through tax avoidance or evasion (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third States) Have agreed as follows:
Article 1 PERSONAL SCOPE This Convention shall apply to persons who are residents of one or both of the Contracting States.	Article 1 PERSONAL SCOPE This Convention shall apply to persons who are residents of one or both of the Contracting States.	Article 1 PERSONS COVERED This Convention shall apply to persons who are residents of one or both of the Contracting States.	Article 1 PERSONS COVERED 1. This Convention shall apply to persons who are residents of one or both of the Contracting States. 2. For the purposes of this Convention, income derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of either Contracting State shall be considered to be income of a resident of a Contracting State but only to the extent that the income is treated, for purposes of taxation by that State, as the income of a resident of that State. 3. This Convention shall not affect the taxation, by a Contracting State, of its residents except with respect to the benefits granted under [paragraph 3 of Article 7], paragraph 2 of Article 9 and Articles 19, 20, 23 A [23 B], 24 and 25 A [25 B] and 28.

[68] Versões em inglês disponibilizadas pelo Departamento de Economia e Assuntos Sociais da Organização das Nações Unidas.

Article 2 TAXES COVERED 1. This Convention shall apply to taxes on income [and on capital] imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied. 2. There shall be regarded as taxes on income [and on capital] all taxes imposed on total income, [on total capital,] or on elements of income [or of capital,] including taxes on gains from the alienation of movable or immovable property, taxes on the tot~1 amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation. 3. The existing taxes to which the Convention shall apply are in particular: (a) (in State A):..... (b) (in State B):..... 4. 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. at the end of each year, the competent authorities of the Contracting States shall notify each other of changes which have been made in their respective taxation laws.	Article 2 TAXES COVERED 1. This Convention shall apply to taxes on income [and on capital] imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied. 2. There shall be regarded as taxes on income [and on capital] all taxes imposed on total income, [on total capital,] or on elements of income [or of capital] including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation. 3. The existing taxes to which the Convention shall apply are in particular: (a) (in State A): ..... (b) (in State B): ..... 4. 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. At the end of each year, the competent authorities of the Contracting States shall notify each other of changes which have been made in their respective taxation laws.	Article 2 TAXES COVERED 1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied. 2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation. 3. The existing taxes to which the Convention shall apply are in particular: (a) (in State A): ..... (b) (in State B): ..... 4. 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.	Article 2 TAXES COVERED 1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied. 2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation. 3. The existing taxes to which the Convention shall apply are in particular: (a) (in State A): ..... (b) (in State B): ..... 4. 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.

Article 3 GENERAL DEFINITIONS 1. For the purposes of this Convention, unless the context otherwise requires: (a) The term "person" includes an individual, a company and any other body of persons; (b) The term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes; (c) The terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State; (d) The term "international traffic" means any transport by a ship or aircraft operated by an enterprise which 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; (e) The term "competent authority" means: (i) (In State A):..... (ii) (In State B):..... . 2. As regards the application of the Convention by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.	Article 3 GENERAL DEFINITIONS 1. For the purposes of this Convention, unless the context otherwise requires: (a) The term “person” includes an individual, a company and any other body of persons; (b) The term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes; (c) The terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State; (d) The term “international traffic” means any transport by a ship or aircraft operated by an enterprise which 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; (e) The term “competent authority” means: (i) (In State A): . . . . . . (ii) (In State B): . . . . . (f) The term “national” means: (i) Any individual possessing the nationality of a Contracting State: (ii) Any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State. 2. As regards the application of the Convention by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.	Article 3 GENERAL DEFINITIONS 1. For the purposes of this Convention, unless the context otherwise requires: (a) The term “person” includes an individual, a company and any other body of persons; (b) The term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes; (c) The terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State; (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; (e) The term “competent authority” means: (i) (In State A): ..... (ii) (In State B): ..... (f) The term “national” means: (i) Any individual possessing the nationality of a Contracting State (ii) Any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State. 2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.	Article 3 GENERAL DEFINITIONS 1. For the purposes of this Convention, unless the context otherwise requires: (a) The term “person” includes an individual, a company and any other body of persons; (b) The term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes; (c) The terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State; (d) The term “international traffic” means any transport by a ship or aircraft, except when the ship or aircraft is operated solely between places in a Contracting State and the enterprise that operates the ship or aircraft is not an enterprise of that State; (e) The term “competent authority” means: (i) (In State A):..... (ii) (In State B): ..... (f) The term “national” means: (i) any individual possessing the nationality of a Contracting State (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State. 2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.
Article 4 RESIDENT 1. For the purposes of this Convention, 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. 2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his	Article 4 RESIDENT 1. For the purposes of this Convention, 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. 2. Where by reason of the	Article 4 RESIDENT 1. For the purposes of this Convention, 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. This	Article 4 RESIDENT 1. For the purposes of this Convention, 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. This

status shall be determined as follows: (a) He shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests); (b) If the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode; (c) If he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national; (d) If he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement. 3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.	provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows: (a) He shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests); (b) If the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode; (c) If he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national; (d) If he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement. 3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.	term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein. 2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows: (a) He shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests); (b) If the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode; (c) If he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national; (d) If he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement. 3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.	term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein. 2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows: (a) He shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests); (b) If the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode; (c) If he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national; (d) If he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement. 3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavor to determine by mutual agreement the Contracting State of which such person shall be deemed to be a resident for the purposes of the Convention, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by this Convention except to the extent and in such manner as may be agreed upon by the competent authorities of the Contracting States.

Article 5 PERMANENT ESTABLISHMENT 1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on. 2. The term "permanent establishment" includes especially: (a) A place of management; (b) A branch; (c) An office; (d) A factory; (e) A workshop; (f) A mine, an oil or gas well, a quarry or any other place of extraction of natural resources. 3. The term "permanent establishment" likewise encompasses: (a) A building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of 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 where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than six months within any 12-month period. 4. Notwithstanding the preceding provisions of this article, the term "permanent ~establishment" shall be deemed not to include: (a) The use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise; (b) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display; (c) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise; (d) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise; (e) The maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity	Article 5 PERMANENT ESTABLISHMENT 1. For the purposes of this Convention, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on. 2. The term “permanent establishment” includes especially: (a) A place of management; (b) A branch; (c) An office; (d) A factory; (e) A workshop; (f) A mine, an oil or gas well, a quarry or any other place of extraction of natural resources. 3. The term “permanent establishment” also encompasses: (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 the country for a period or periods aggregating more than six months within any 12-month period. 4. Notwithstanding the preceding provisions of this article, the term “permanent establishment” shall be deemed not to include: (a) The use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise; (b) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display; (c) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise; (d) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise; (e) The maintenance of a fixed place of business solely for the purpose of carrying on, for the	Article 5 PERMANENT ESTABLISHMENT 1. For the purposes of this Convention, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on. 2. The term “permanent establishment” includes especially: (a) A place of management; (b) A branch; (c) An office; (d) A factory; (e) A workshop; (f) A mine, an oil or gas well, a quarry or any other place of extraction of natural resources. 3. The term “permanent establishment” also encompasses: (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. 4. Notwithstanding the preceding provisions of this article, the term “permanent establishment” shall be deemed not to include: (a) The use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise; (b) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display; (c) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise; (d) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise; (e) The maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity	Article 5 PERMANENT ESTABLISHMENT 1. For the purposes of this Convention, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on. 2. The term “permanent establishment” includes especially: (a) A place of management; (b) A branch; (c) An office; (d) A factory; (e) A workshop; (f) A mine, an oil or gas well, a quarry or any other place of extraction of natural resources. 3. The term “permanent establishment” also encompasses: (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 within a Contracting State for a period or periods aggregating more than 183 days in any 12-month period commencing or ending in the fiscal year concerned. 4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include: (a) The use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise; (b) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display; (c) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise; (d) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise; (e) The maintenance of a fixed place of business solely for the purpose of carrying on, for the

of a preparatory or auxiliary character. 5. Notwithstanding the provisions of paragraphs 1 and 2, where a person-other than an agent of an independent status to whom paragraph 7 applies is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person: (a) Has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or (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. 6. 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. 7. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph. 8. The fact that a company which is a resident of a	enterprise, any other activity of a preparatory or auxiliary character. 5. Notwithstanding the provisions of paragraphs 1 and 2, where a person—other than an agent of an independent status to whom paragraph 7 applies—is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person: (a) Has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or (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. 6. 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. 7. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph. 8. The fact that a company	of a preparatory or auxiliary character. (f) The maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character. 5. Notwithstanding the provisions of paragraphs 1 and 2, where a person—other than an agent of an independent status to whom paragraph 7 applies—is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person: (a) Has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or (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. 6. 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. 7. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in	enterprise, any other activity; (f) The maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that such activity or, in the case of subparagraph (f), the overall activity of the fixed place of business, is of a preparatory or auxiliary character. 4.1 Paragraph 4 shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same Contracting State and: (a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of this Article, or (b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character, provided that the business activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, constitute complementary functions that are part of a cohesive business operation. 5. Notwithstanding the provisions of paragraphs 1 and 2 but subject to the provisions of paragraph 7, where a person is acting in a Contracting State on behalf of an enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, if such a person: (a) habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the enterprise, and these contracts are (i) in the name of the enterprise, or (ii) for the transfer of the ownership of, or for the granting of the right to use, property owned by that enterprise or that the enterprise has the right to use, or (iii) for the provision of services by that enterprise, unless the activities of such person are limited to those mentioned in paragraph 4

Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise) shall not of itself constitute either company a permanent establishment of the other.	which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.	the ordinary course of their business. 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. 8. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.	which, if exercised through a fixed place of business (other than a fixed place of business to which paragraph 4.1 would apply), would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or (b) the person does not habitually conclude contracts nor plays the principal role leading to the conclusion of such contracts, but habitually maintains in that State a stock of goods or merchandise from which that person regularly delivers goods or merchandise on behalf of the enterprise. 6. Notwithstanding the preceding provisions of this Article but subject to the provisions of paragraph 7, 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. 7. Paragraphs 5 and 6 shall not apply where the person acting in a Contracting State on behalf of an enterprise of the other Contracting State carries on business in the first-mentioned State as an independent agent and acts for the enterprise in the ordinary course of that business. Where, however, a person acts exclusively or almost exclusively on behalf of one or more enterprises to which it is closely related, that person shall not be considered to be an independent agent within the meaning of this paragraph with respect to any such enterprise. 8. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other. 9. For the purposes of this Article, a person or enterprise is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any

			case, a person or enterprise shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person or enterprise possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise or in the two enterprises.
Article 6 INCOME FROM IMMOVABLE PROPERTY 1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State. 2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property. 3. The provisions of paragraph I shall also apply to income derived from the direct use, letting or use in any other form of immovable property. 4. The provisions of paragraphs I and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.	Article 6 INCOME FROM IMMOVABLE PROPERTY 1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State. 2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property. 3. The provisions of paragraph 1 shall also apply to income derived from the direct use, letting or use in any other form of immovable property. 4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.	Article 6 INCOME FROM IMMOVABLE PROPERTY 1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State. 2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property. 3. The provisions of paragraph 1 shall also apply to income derived from the direct use, letting or use in any other form of immovable property. 4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.	Article 6 INCOME FROM IMMOVABLE PROPERTY 1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State. 2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property. 3. The provisions of paragraph 1 shall also apply to income derived from the direct use, letting or use in any other form of immovable property. 4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7 BUSINESS PROFITS 1. 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. 2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment. 3. 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 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	Article 7 BUSINESS PROFITS 1. 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. 2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment. 3. 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 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	Article 7 BUSINESS PROFITS 1. 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. 2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment. 3. 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 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,	Article 7 BUSINESS PROFITS 1. 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. 2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment. 3. 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 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

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. 4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this article. 5. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary. 6. Where profits include items of income which are dealt with separately in other articles of this Convention, then the provisions of those articles shall not be affected by the provisions of this article. (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 and merchandise for the enterprise was not resolved. It should therefore be settled in bilateral negotiations.)	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. 4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this article. 5. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary. 6. Where profits include items of income which are dealt with separately in other articles of this Convention, then the provisions of those articles shall not be affected by the provisions of this article. (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 and merchandise for the enterprise was not resolved. It should therefore be settled in bilateral negotiations.)	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. 4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this article. 5. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary. 6. Where profits include items of income which are dealt with separately in other articles of this Convention, then the provisions of those articles shall not be affected by the provisions of this article. (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 and merchandise for the enterprise was not resolved. It should therefore be settled in bilateral negotiations.)	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. 4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article. 5. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary. 6. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article. (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 and merchandise for the enterprise was not resolved. It should therefore be settled in bilateral negotiations.)

Article 8 SHIPPING, INLAND WATERWAYS TRANSPORT AND AIR TRANSPORT Article 8 A (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 harbor of the ship or boat is situated, or, if there is no such home harbor, 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 B (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 over-all 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	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 harbor of the ship or boat is situated, or, if there is no such home harbor, 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 over-all 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	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 harbor of the ship or boat is situated, or, if there is no such home harbor, 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	Article 8 INTERNATIONAL SHIPPING AND AIR TRANSPORT Article 8 (alternative A) 1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State. 2. 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 of an enterprise of a Contracting State from the operation of aircraft in international traffic shall be taxable only in that State. 2. Profits of an enterprise of a Contracting State from the operation of ships in international traffic shall be taxable only in that State 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. 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.

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 boat, then it shall be deemed to be situated in the Contracting State in which the home harbor of the ship or boat is situated, or if there is no such home harbor, in the Contracting State of which the operator of the ship or boat is a resident. 5. The provisions of paragraphs I and 2 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.	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 boat, then it shall be deemed to be situated in the Contracting State in which the home harbor of the ship or boat is situated, or if there is no such home harbor, 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.	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 boat, then it shall be deemed to be situated in the Contracting State in which the home harbor of the ship or boat is situated, or if there is no such home harbor, 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.	
Article 9 ASSOCIATED ENTBRPRISES 1. Where: (a) An enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or (b) The same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly. 2. Where a Contracting State includes in the profits of an enterprise of that State-and taxes accordingly-profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In	Article 9 ASSOCIATED ENTERPRISES 1. Where: (a) An enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or (b) The same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly. 2. Where a Contracting State includes in the profits of an enterprise of that State—and taxes accordingly—profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In	Article 9 ASSOCIATED ENTERPRISES 1. Where: (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly. 2. Where a Contracting State includes in the profits of an enterprise of that State—and taxes accordingly—profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an	Article 9 ASSOCIATED ENTERPRISES 1. Where: (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly. 2. Where a Contracting State includes in the profits of an enterprise of that State—and taxes accordingly—profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an

determining such adjustment, due regard shall be had to the other provisions of the Convention and the competent authorities of the Contracting States shall, if necessary, consult each other.	determining such adjustment, due regard shall be had to the other provisions of the Convention and the competent authorities of the Contracting States shall, if necessary, consult each other.	appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of the Convention and the competent authorities of the Contracting States shall, if necessary, consult each other. 3. 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 willful default.	appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of the Convention and the competent authorities of the Contracting States shall, if necessary, consult each other. 3. 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 willful default.
Article 10 DIVIDENDS 1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State. 2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed: (a) ... per cent (the percentage is to be established through bilateral negotiations) of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends; (b) ... per cent (the percentage is to be established through bilateral negotiations) of the gross amount of the dividends in all other cases. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid. 3. The term "dividends" as used in this article means income from shares, "jouissance" shares or "jouissance." rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation	Article 10 DIVIDENDS 1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State. 2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed: (a) ...per cent (the percentage is to be established through bilateral negotiations) of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends; (b) ... per cent (the percentage is to be established through bilateral negotiations) of the gross amount of the dividends in all other cases. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid. 3. The term “dividends” as used in this article means income from shares, “jouissance” shares or “jouissance” rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other	Article 10 DIVIDENDS 1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State. 2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed: (a) ___ per cent (the percentage is to be established through bilateral negotiations) of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends; (b) ___ per cent (the percentage is to be established through bilateral negotiations) of the gross amount of the dividends in all other cases. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid. 3. The term “dividends” as used in this article means income from shares, “jouissance” shares or “jouissance” rights, mining shares, founders’ shares or other rights, not being debt claims, participating in profits,	Article 10 DIVIDENDS 1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State. 2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed: (a) ___ per cent (the percentage is to be established through bilateral negotiations) of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends throughout a 365 day period that includes the day of the payment of the dividend (for the purpose of computing that period, no account shall be taken of changes of ownership that would directly result from a corporate reorganization, such as a merger or divisive reorganization, of the company that holds the shares or that pays the dividend); (b) ___ per cent (the percentage is to be established through bilateral negotiations) of the gross amount of the dividends in all other cases. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations. This paragraph shall not affect

treatment as income from shares by the laws of the State of which the company making the distribution is a resident. 4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of article 7 or article 14, as the case may be, shall apply. 5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except in so far as such dividends are paid to a resident of that other State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.	corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. 4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of article 7 or article 14, as the case may be, shall apply. 5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except in so far as such dividends are paid to a resident of that other State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State. 6. Notwithstanding any other provision of this Convention, where a company which is a resident of a Contracting State has a permanent establishment in the other Contracting State, the profits attributable to the permanent establishment may be subject to an additional tax in that other State, in accordance with its laws, but the additional charge shall not exceed ... per cent of the amount of those profits.	as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. 4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of article 7 or article 14, as the case may be, shall apply. 5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except in so far as such dividends are paid to a resident of that other State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.	the taxation of the company in respect of the profits out of which the dividends are paid. 3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. 4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply. 5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except in so far as such dividends are paid to a resident of that other State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11 INTEREST 1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. 2. However, such interest may also be taxed in the Contracting State III which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed ... per cent (the percentage is to be established through bilateral negotiations) of the gross amount of the interest. The competent authority) of the Contracting States shall by mutual agreement settle the mode of application of this limitation. 3. The term "interest" as used in this article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this article. 4. 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 effectively connected with (a) such permanent establishment or fixed base, or with (b) business activities referred to under (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. 5. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a	Article 11 INTEREST 1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. 2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other State, the tax so charged shall not exceed... per cent (the percentage is to be established through bilateral negotiations) of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. 3. The term “interest” as used in this article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this article. 4. 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 effectively connected with (a) such permanent establishment or fixed base or with (b) business activities referred to under (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. 5. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a	Article 11 INTEREST 1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. 2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed ___ per cent (the percentage is to be established through bilateral negotiations) of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. 3. The term “interest” as used in this article means income from debt claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor’s profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this article. 4. 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 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. 5. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, 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 indebtedness on	Article 11 INTEREST 1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. 2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed ___ per cent (the percentage is to be established through bilateral negotiations) of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. 3. The term “interest” as used in this Article means income from debt claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor’s profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article. 4. 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 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. 5. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, 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 indebtedness on

fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated. 6. Where by reason of a special relationship between the Payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this article shall apply only to the last mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.	permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated. 6. Where by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this article shall apply only to the last mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.	which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated. 6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.	which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated. 6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article I2 ROYALTIES 1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. 2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed ... per cent (the percentage is to be established through bilateral negotiations) of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. 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, or films or tapes used for radio or television broadcasting, any patent, trade mark, 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. 4. The provisions of paragraphs I 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 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 under (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. 5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State	Article 12 ROYALTIES 1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. 2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other State, the tax so charged shall not exceed ... per cent (the percentage is to be established through bilateral negotiations) of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. 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, or films or tapes used for radio or television broadcasting, any patent, trade mark, 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. 4. 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 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 under (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. 5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a	Article 12 ROYALTIES 1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. 2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed ___ per cent (the percentage is to be established through bilateral negotiations) of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. 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, 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. 4. 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 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. 5. 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	Article 12 ROYALTIES 1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. 2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed ___ per cent (the percentage is to be established through bilateral negotiations) of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. 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, 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. 4. 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 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. 5. 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

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. 6. Where by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.	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. 6. Where by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.	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. 6. Where by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.	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. 6. Where by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention. Article 12A FEES FOR TECHNICAL SERVICES 1. Fees for technical services arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. 2. However, notwithstanding the provisions of Article 14 and subject to the provisions of Articles 8, 16 and 17, fees for technical services arising in a Contracting State may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the fees is a resident of the other Contracting State, the tax so charged shall not exceed ___ percent of the gross amount of the fees [the percentage to be established through bilateral negotiations]. 3. The term “fees for technical services” as used in this Article means any payment in consideration for any service of a managerial, technical or consultancy nature, unless the payment is made: (a) to an employee of the person making the payment; (b) for teaching in an educational institution or for teaching by an educational institution; or (c) by an individual for services for the personal use of an individual.

			4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of fees for technical services, being a resident of a Contracting State, carries on business in the other Contracting State in which the fees for technical services arise through a permanent establishment situated in that other State, or performs in the other Contracting State independent personal services from a fixed base situated in that other State, and the fees for technical services are effectively connected with: (a) such permanent establishment or fixed base, or (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. 5. For the purposes of this Article, subject to paragraph 6, fees for technical services shall be deemed to arise in a Contracting State if the payer is a resident of that State or if the person paying the fees, whether that person 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 obligation to pay the fees was incurred, and such fees are borne by the permanent establishment or fixed base. 6. For the purposes of this Article, fees for technical services shall be deemed not to arise in a Contracting State if the payer is a resident of that State and carries on business in the other Contracting State through a permanent establishment situated in that other State or performs independent personal services through a fixed base situated in that other State and such fees are borne by that permanent establishment or fixed base. 7. Where, by reason of a special relationship between the payer and the beneficial owner of the fees for technical services or between both of them and some other person, the amount of the fees, having regard to the services for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the fees shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13 CAPITAL GAINS 1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in article 6 and situated in the other Contracting State may be taxed in that other State. 2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State. 3. Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. 4. Gains from the alienation of shares of the capital stock of a company the property of which consists directly or indirectly principally of immovable property situated in a Contracting State may be taxed in that State. 5. 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. 6. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3, 4 and 5 shall be taxable only in the Contracting State of which the alienator is a resilient.	Article 13 CAPITAL GAINS 1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in article 6 and situated in the other Contracting State may be taxed in that other State. 2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State. 3. Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. 4. Gains from the alienation of shares of the capital stock of a company the property of which consists directly or indirectly principally of immovable property situated in a Contracting State may be taxed in that State. 5. 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. 6. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3, 4 and 5 shall be taxable only in the Contracting State of which the alienator is a resident.	Article 13 CAPITAL GAINS 1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in article 6 and situated in the other Contracting State may be taxed in that other State. 2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State. 3. Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. 4. 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 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. 5. Gains from the alienation of shares other than those mentioned in paragraph 4	Article 13 CAPITAL GAINS 1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State. 2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State. 3. Gains that an enterprise of a Contracting State that operates ships or aircraft in international traffic derives from the alienation of such ships or aircraft, or of movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State. 4. Gains derived by a resident of a Contracting State from the alienation of shares or comparable interests, such as interests in a partnership or trust, may be taxed in the other Contracting State if, at any time during the 365 days preceding the alienation, these shares or comparable interests derived more than 50 per cent of their value directly or indirectly from immovable property, as defined in Article 6, situated in that other State. 5. Gains, other than those to which paragraph 4 applies, derived by a resident of a Contracting State from the alienation of shares of a company, or comparable interests, such as interests in a partnership or trust, which is a resident of the other Contracting State, may be taxed in that other State if the alienator, at any time during the 365 days preceding such alienation, held directly or indirectly at least ___ per cent (the percentage is to be established through bilateral negotiations) of the capital of that company. 6. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3, 4 and 5 shall be taxable

		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. 6. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3, 4 and 5 shall be taxable only in the Contracting State of which the alienator is a resident.	only in the Contracting State of which the alienator is a resident.
Article 14 INDEPENDENT PERSONAL SERVICES 1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other Contracting State: (a) If he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or (b) If his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State; or (c) If the remuneration for his activities in the other Contracting State is paid by a resident of that Contracting State or is borne by a permanent establishment or a fixed base situated in that Contracting State and exceeds in the fiscal year . . . (the amount is to be established through bilateral negotiations). 2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.	Article 14 INDEPENDENT PERSONAL SERVICES 1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other Contracting State: (a) If he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or (b) If his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State; or (c) If the remuneration for his activities in the other Contracting State is paid by a resident of that Contracting State or is borne by a permanent establishment or a fixed base situated in that Contracting State and exceeds in the fiscal year ... (the amount is to be established through bilateral negotiations). 2. The term “professional services” includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.	Article 14 INDEPENDENT PERSONAL SERVICES 1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other Contracting State: (a) If he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or (b) If his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State. 2. The term “professional services” includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.	Article 14 INDEPENDENT PERSONAL SERVICES 1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other Contracting State: (a) If he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or (b) If his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State. 2. The term “professional services” includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15 DEPENDENT PERSONAL SERVICES 1. Subject to the provisions of articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State, 2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if: (a) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned; and (b) The remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and (c) The remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State. 3. Notwithstanding the preceding provisions of this article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.	Article 15 DEPENDENT PERSONAL SERVICES 1. Subject to the provisions of articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State. 2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if: (a) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; and (b) The remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and (c) The remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State. 3. Notwithstanding the preceding provisions of this article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.	Article 15 DEPENDENT PERSONAL SERVICES 1. Subject to the provisions of articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State. 2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if: (a) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned; and (b) The remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and (c) The remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State. 3. Notwithstanding the preceding provisions of this article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.	Article 15 DEPENDENT PERSONAL SERVICES 1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State. 2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if: (a) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned; and (b) The remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and (c) The remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State. 3. Notwithstanding the preceding provisions of this Article, remuneration derived by a resident of a Contracting State in respect of an employment, as a member of the regular complement of a ship or aircraft, that is exercised aboard a ship or aircraft operated in international traffic, other than aboard a ship or aircraft operated solely within the other Contracting State, shall be taxable only in the first-mentioned State.
Article 16 DIRECTORS' FEES AND REMUNERATION OF TOP-LEVEL MANAGERIAL OFFICIALS 1. Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the Board of Directors of a company which is a resident of the other Contracting State may be taxed in that other State. 2. Salaries, wages and other similar remuneration derived by a resident of a Contracting State in his capacity as an	Article 16 DIRECTORS' FEES AND REMUNERATION OF TOP-LEVEL MANAGERIAL OFFICIALS 1. Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the Board of Directors of a company which is a resident of the other Contracting State may be taxed in that other State. 2. Salaries, wages and other similar remuneration derived by a resident of a Contracting State in his capacity as an	Article 16 DIRECTORS' FEES AND REMUNERATION OF TOP-LEVEL MANAGERIAL OFFICIALS 1. Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the Board of Directors of a company which is a resident of the other Contracting State may be taxed in that other State. 2. Salaries, wages and other similar remuneration derived by a resident of a Contracting State in his capacity as an	Article 16 DIRECTORS' FEES AND REMUNERATION OF TOP-LEVEL MANAGERIAL OFFICIALS 1. Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the Board of Directors of a company which is a resident of the other Contracting State may be taxed in that other State. 2. 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.	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.	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.	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.
Article 17 INCOME EARNED BY ENTERTAINERS AND ATHLETES 1. Notwithstanding the provisions of articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State. 2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.	Article 17 INCOME EARNED BY ENTERTAINERS AND SPORTSMEN 1. Notwithstanding the provisions of articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State. 2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.	Article 17 ARTISTES AND SPORTSPERSONS 1. Notwithstanding the provisions of articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State. 2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.	Article 17 ARTISTES AND SPORTSPERSONS 1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State. 2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.
Article 18 PENSIONS AND SOCIAL SECURITY PAYMENTS Article 18 A (alternative A) 1. Subject to the provisions of paragraph 2 of article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State. 2. Notwithstanding the provisions of paragraph I, 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. Article 18 B (alternative B) 1. Subject to the provisions of paragraph 2 of article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment may be taxed in that State. 2. However, such pensions and other similar remuneration may also be taxed in the other Contracting State if the payment is made by a resident of that other State or a permanent establishment situated therein.	Article 18 PENSIONS AND SOCIAL SECURITY PAYMENTS Article 18A (alternative A) 1. Subject to the provisions of paragraph 2 of article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State. 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. Article 18B (alternative B) 1. Subject to the provisions of paragraph 2 of article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment may be taxed in that State. 2. However, such pensions and other similar remuneration may also be taxed in the other Contracting State if the payment is made by a resident of that other State or a permanent establishment situated therein.	Article 18 PENSIONS AND SOCIAL SECURITY PAYMENTS Article 18 (alternative A) 1. Subject to the provisions of paragraph 2 of article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State. 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. Article 18 (alternative B) 1. Subject to the provisions of paragraph 2 of article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment may be taxed in that State. 2. However, such pensions and other similar remuneration may also be taxed in the other Contracting State if the payment is made by a resident of that other State or a permanent establishment situated therein.	Article 18 PENSIONS AND SOCIAL SECURITY PAYMENTS Article 18 (alternative A) 1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State. 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. Article 18 (alternative B) 1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment may be taxed in that State. 2. However, such pensions and other similar remuneration may also be taxed in the other Contracting State if the payment is made by a resident of that other State or a permanent establishment situated therein.

3. Notwithstanding the provisions of paragraphs 1 and 2, 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.	3. Notwithstanding the provisions of paragraphs 1 and 2, 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.	3. Notwithstanding the provisions of paragraphs 1 and 2, 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.	3. Notwithstanding the provisions of paragraphs 1 and 2, 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.
Article 19 REMUNERATION AND PENSIONS IN RESPECT OF GOVERNMENT SERVICE 1. (a) 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. (b) However. such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the individual is a resident of that State who: (i) Is a national of that State; or (ii) Did not become a resident of that State solely for the purpose of rendering the services. 2. (a) 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 authority shall be taxable only in that State. (b) 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. 3. The provisions of articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.	Article 19 REMUNERATION AND PENSIONS IN RESPECT OF GOVERNMENT SERVICE 1. (a) 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. (b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the individual is a resident of that State who: (i) Is a national of that State; or (ii) Did not become a resident of that State solely for the purpose of rendering the services. 2. (a) 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 authority shall be taxable only in that State. (b) 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. 3. The provisions of articles 15, 16, 17 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.	Article 19 GOVERNMENT SERVICE 1. (a) 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. (b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the individual is a resident of that State who: (i) Is a national of that State; or (ii) Did not become a resident of that State solely for the purpose of rendering the services. 2. (a) 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 authority shall be taxable only in that State. (b) 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. 3. The provisions of articles 15, 16, 17 and 18 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.	Article 19 GOVERNMENT SERVICE 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. (b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the individual is a resident of that State who: (i) is a national of that State; or (ii) did not become a resident of that State solely for the purpose of rendering the services. 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 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. (b) However, such pensions 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. 3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20 PAYMENTS RECEIVED BY STUDENTS AND APPRENTICES 1. 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 that such payments arise from sources outside that State. 2. In respect of grants, scholarships and remuneration from employment not covered by paragraph 1, a student or business apprentice described in paragraph 1 shall, in addition, be entitled during such education or training to the same exemptions, reliefs or reductions in respect of taxes available to residents of the State which he is visiting.	Article 20 PAYMENTS RECEIVED BY STUDENTS AND APPRENTICES 1. 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 that such payments arise from sources outside that State. 2. In respect of grants, scholarships and remuneration from employment not covered by paragraph 1, a student or business apprentice described in paragraph 1 shall, in addition, be entitled during such education or training to the same exemptions, reliefs or reductions in respect of taxes available to residents of the State which he is visiting.	Article 20 STUDENTS 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 that such payments arise from sources outside that State.	Article 20 STUDENTS 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 that such payments arise from sources outside that State.
Article 21 OTHER INCOME 1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing articles of this Convention shall be taxable only in that State. 2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of article 7 or article 14, as the case may be, shall apply. 3. 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.	Article 21 OTHER INCOME 1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing articles of this Convention shall be taxable only in that State. 2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of article 7 or article 14, as the case may be, shall apply. 3. 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.	Article 21 OTHER INCOME 1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing articles of this Convention shall be taxable only in that State. 2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of article 7 or article 14, as the case may be, shall apply. 3. 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.	Article 21 OTHER INCOME 1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State. 2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply. 3. 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.

Article 22 CAPITAL 1. [Capital represented by immovable property referred to in article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.] 2. [Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.] 3. [Capital represented by ships and aircraft operated in intonational traffic and by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.] 4. [All other elements of capital of a resident of a Contracting State shall be taxable only in that State.] (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.)	Article 22 CAPITAL 1. [Capital represented by immovable property referred to in article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.] 2. [Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.] 3. [Capital represented by ships and aircraft operated in international traffic and by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.] 4. [All other elements of capital of a resident of a Contracting State shall be taxable only in that State.] (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.)	Article 22 CAPITAL 1. Capital represented by immovable property referred to in article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State. 2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services may be taxed in that other State. 3. Capital represented by ships and aircraft operated in international traffic and by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. [4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.] (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.)	Article 22 CAPITAL 1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State. 2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services may be taxed in that other State. 3. Capital of an enterprise of a Contracting State that operates ships or aircraft in international traffic represented by such ships or aircraft, and by movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State. [4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.] (The question of the taxation of all other elements of capital of a resident of a Contracting State is left to bilateral negotiations. 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.)

Article 23 A EXEMPTION METHOD 1. Where a resident of a Contracting State derives income [or owns capital] which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall, subject to the provisions of paragraphs 2 and 3, exempt such income [or capital] from tax. 2. Where a resident of a Contracting State derives items of income which, in accordance with the provisions of articles 10, 11 and 12, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in that other State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from that other State. 3. Where in accordance with any provision of this Convention income derived [or capital owned] by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income [or capital] of such resident, take into account the exempted income [or capital]. Article 23 B CREDIT METHOD 1. Where a resident of a Contracting State derives income [or owns capital] which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in that other State [and as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other State]. Such deduction [in either case] shall not, however, exceed that part of the income tax [or capital tax,] as computed before the deduction is given, which is attributable, as the case may be, to the income [or the capital] which may be taxed in that other State. 2. Where. in accordance with any provision of this Convention income derived	Article 23 A EXEMPTION METHOD 1. Where a resident of a Contracting State derives income [or owns capital] which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall, subject to the provisions of paragraphs 2 and 3, exempt such income [or capital] from tax. 2. Where a resident of a Contracting State derives items of income which, in accordance with the provisions of articles 10, 11 and 12, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in that other State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from that other State. 3. Where in accordance with any provision of this Convention income derived [or capital owned] by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income [or capital] of such resident, take into account the exempted income [or capital]. Article 23 B CREDIT METHOD 1. Where a resident of a Contracting State derives income [or owns capital] which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in that other State [and as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other State]. Such deduction [in either case] shall not, however, exceed that part of the income tax [or capital tax,] as computed before the deduction is given, which is attributable, as the case may be, to the income [or the capital] which may be taxed in that other State. 2. Where, in accordance with any provision of this Convention, income derived	Article 23 A EXEMPTION METHOD 1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first mentioned State shall, subject to the provisions of paragraphs 2 and3, exempt such income or capital from tax. 2. Where a resident of a Contracting State derives items of income which, in accordance with the provisions of articles 10, 11 and 12, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in that other State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from that other State. 3. Where in accordance with any provision of this Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital. Article 23 B CREDIT METHOD 1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in that other State, and as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other State. Such deduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in that other State. 2. Where, in accordance with any provision of this Convention, income derived or capital owned by a resident of a Contracting State is	Article 23 A EXEMPTION METHOD 1. Where a resident of a Contracting State derives income or owns capital which may be taxed in the other Contracting State, in accordance with the provisions of this Convention (except to the extent that these provisions allow taxation by that other State solely because the income is also income derived by a resident of that State or because the capital is also capital owned by a resident of that State), the first-mentioned State shall, subject to the provisions of paragraphs 2 and 3, exempt such income or capital from tax. 2. Where a resident of a Contracting State derives items of income which, in accordance with the provisions of Articles 10, 11 12, and 12A may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in that other State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income which may be taxed in that other State. 3. Where in accordance with any provision of this Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital. 4. The provisions of paragraph 1 shall not apply to income derived or capital owned by a resident of a Contracting State where the other Contracting State applies the provisions of this Convention to exempt such income or capital from tax or applies the provisions of paragraph 2 of Article 10, 11, 12 or 12A to such income; in the latter case, the first-mentioned State shall allow the deduction of tax provided for by paragraph 2. Article 23 B CREDIT METHOD 1. Where a resident of a Contracting State derives income or owns capital which may be taxed in the other Contracting State, in accordance with the

[or capital owned] by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless in calculating the amount of tax on the remaining income [or capital] of such resident take into account the exempted income [or capital].	[or capital owned] by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income [or capital] of such resident, take into account the exempted income [or capital].	exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.	provisions of this Convention (except to the extent that these provisions allow taxation by that other State solely because the income is also income derived by a resident of that State or because the capital is also capital owned by a resident of that State), the first-mentioned State shall allow: (a) as a deduction from the tax on the income of that resident an amount equal to the income tax paid in that other State; (b) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other State. Such deduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in that other State. 2. Where, in accordance with any provision of this Convention, income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.
Article 24 NON-DISCRIMINATION 1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of article 1, also apply to persons who are not residents of one or both of the Contracting States. 2. The term "nationals" means: (a) All individuals possessing the nationality of a Contracting State; (b) All legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State. 3. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any	Article 24 NON-DISCRIMINATION 1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of article 1, also apply to persons who are not residents of one or both of the Contracting States. 2. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances are or may be subjected.	Article 24 NON-DISCRIMINATION 1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of article 1, also apply to persons who are not residents of one or both of the Contracting States. 2. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances, in particular with respect to residence, are	Article 24 NON-DISCRIMINATION 1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States. 2. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances, in particular with respect to residence, are

taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances are or may be subjected. 4. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents. 5. Except where the provisions of paragraph 1 of article 9, paragraph 6 of article 11, or paragraph 6 of article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. [Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.] 6. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected III the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected. 7. The provisions of this article shall, notwithstanding the provisions of article 2,	3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents. 4. Except where the provisions of paragraph 1 of article 9, paragraph 6 of article 11, or paragraph 6 of article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. [Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.] 5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected. 6. The provisions of this article shall, notwithstanding the provisions of article 2, apply to taxes of every kind and description.	or may be subjected. 3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents. 4. Except where the provisions of paragraph 1 of article 9, paragraph 6 of article 11, or paragraph 6 of article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State. 5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected. 6. The provisions of this article shall, notwithstanding the provisions of article 2, apply to taxes of every kind and description.	or may be subjected. 3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents. 4. Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, paragraph 6 of Article 12, or paragraph 6 of Article 12A apply, interest, royalties, fees for technical services, and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State. 5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected. 6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

apply to taxes of every kind and description.			
Article 25 MUTUAL AGREEMENT PROCEDURE 1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention. 2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States. 3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention. 4. The competent authorities of the Contracting States may communicate with each other	Article 25 MUTUAL AGREEMENT PROCEDURE 1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention. 2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States. 3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention. 4. The competent authorities of the Contracting States may communicate with each other	Article 25 MUTUAL AGREEMENT PROCEDURE 1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention. 2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States. 3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention. 4. The competent authorities of the Contracting States may communicate with each other	Article 25 MUTUAL AGREEMENT PROCEDURE Article 25 (alternative A) 1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention. 2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States. 3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention. 4. The competent authorities of the Contracting States may

directly 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 procedure.	directly 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 procedure.	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 procedure.	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, may develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this Article. Article 25 (alternative B) 1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention. 2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States. 3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention. 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, through consultations, may develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this Article. 5. Where, (a) under paragraph 1, a person has presented a case to the competent authority of a Contracting State on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of this Convention, and (b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 within three years from the presentation of the case to the competent authority of the other Contracting State, any unresolved issues arising from the case shall be submitted to arbitration if either competent authority so requests. The person who has presented the case shall be notified of the request. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either State. The arbitration decision shall be binding on both States and shall be implemented notwithstanding any time limits in the domestic laws of these States unless both competent authorities agree on a different solution within six months after the decision has been communicated to them or unless a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this paragraph.

Article 26 EXCHANGE OF INFORMATION 1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention, in so far as the taxation thereunder is not contrary to the Convention, in particular for the prevention of fraud or evasion of such taxes. The exchange of information is not restricted by article 1. Any information received 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) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of the Convention. Such persons or authorities shall use the information only for such purposes but may disclose the information in public court proceedings or in judicial decisions. The competent authorities shall, through consultation, develop appropriate conditions, methods and techniques concerning the matters in respect of which such exchanges of information shall be made, including, where appropriate, exchanges of information regarding tax avoidance. 2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation: (a) To carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State; (b) To supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State; (c) To supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of	Article 26 EXCHANGE OF INFORMATION 1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention, in so far as the taxation thereunder is not contrary to the Convention, in particular for the prevention of fraud or evasion of such taxes. The exchange of information is not restricted by article 1. Any information received 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) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of the Convention. Such persons or authorities shall use the information only for such purposes but may disclose the information in public court proceedings or in judicial decisions. The competent authorities shall, through consultation, develop appropriate conditions, methods and techniques concerning the matters in respect of which such exchanges of information shall be made, including, where appropriate, exchanges of information regarding tax avoidance. 2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation: (a) To carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State; (b) To supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State; (c) To supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of	Article 26 EXCHANGE OF INFORMATION 1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention, in so far as the taxation thereunder is not contrary to the Convention, in particular for the prevention of fraud or evasion of such taxes. The exchange of information is not restricted by article 1. Any information received 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 assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to the taxes which are the subject of the Convention. Such persons or authorities shall use the information only for such purposes but may disclose the information in public court proceedings or in judicial decisions. The competent authorities shall, through consultation, develop appropriate conditions, methods and techniques concerning the matters in respect of which such exchanges of information shall be made, including, where appropriate, exchanges of information regarding tax avoidance. 2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation: (a) To carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State; (b) To supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State; (c) To supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of	Article 26 EXCHANGE OF INFORMATION 1. 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. 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 it 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 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. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorizes such use. 3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation: (a) To carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State; (b) To supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

which would be contrary of public policy (order public).	which would be contrary to public policy (order public).	which would be contrary to public policy (order public).	(c) To supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (order public). 4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information. 5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person. 6. 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.
Article 27 DIPLOMATIC AGENTS AND CONSULAR OFFICERS Nothing in this Convention shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.	Article 27 MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.	Article 27 MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.	Article 27 ASSISTANCE IN THE COLLECTION OF TAXES 1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article. 2. The term “revenue claim” as used in this Article means an amount owed in respect of 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 this Convention or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and

			costs of collection or conservancy related to such amount. 3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State. 4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection. 5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State. 6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not

			be brought before the courts or administrative bodies of the other Contracting State. 7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be: (a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, or (b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection, the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request. 8. In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation: (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State; (b) to carry out measures which would be contrary to public policy (order public); (c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice; (d) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State.

Article 28 ENTRY INTO FORCE 1. This Convention shall be ratified and the instruments of ratification shall be exchanged at ..... as soon as possible. 2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect: (a) (In State A): ..... (b) (In State B):	Article 28 ENTRY INTO FORCE 1. This Convention shall be ratified and the instruments of ratification shall be exchanged at ..... as soon as possible. 2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect: (a) (In State A): ..... (b) (In State B):	Article 28 ENTRY INTO FORCE 1. This Convention shall be ratified and the instruments of ratification shall be exchanged at ____ as soon as possible. 2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect: (a) (In State A): ..... (b) (In State B):	Article 28 MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.
Article 29 TERMINATION This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end' of any calendar year after the year. . . . . In such event, the Convention shall cease to have effect: (a) (In State A):..... (b) (In State B):.....	Article 29 TERMINATION This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year ..... In such event, the Convention shall cease to have effect: (a) (In State A): ..... (b) (In State B):	Article 29 TERMINATION This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year ____. In such event, the Convention shall cease to have effect: (a) (In State A): ..... (b) (In State B):	Article 29 ENTITLEMENT TO BENEFITS 1. Except as otherwise provided in this Article, a resident of a Contracting State shall not be entitled to a benefit that would otherwise be accorded by this Convention (other than a benefit under paragraph 3 of Article 4, paragraph 2 of Article 9 or Article 25) unless such resident is a “qualified person”, as defined in paragraph 2, at the time that the benefit would be accorded. 2. A resident of a Contracting State shall be a qualified person at a time when a benefit would otherwise be accorded by the Convention if, at that time, the resident is: (a) an individual; (b) that Contracting State, or a political subdivision or local authority thereof, or an agency or instrumentality of that State, political subdivision or local authority; (c) a company or other entity, if, throughout the taxable period that includes that time, the principal class of its shares (and any disproportionate class of shares) is regularly traded on one or more recognized stock exchanges, and either: (i) its principal class of shares is primarily traded on one or more recognized stock exchanges located in the Contracting State of which the company or entity is a resident; or (ii) the company’s or entity’s primary place of management and control is in the Contracting State of which it is a resident; (d) a company, if: (i) throughout the taxable period that includes that time, at least 50 per cent of the aggregate vote and value of the shares (and at least 50 per cent of the aggregate vote and value of any disproportionate class of shares) in the company is owned directly or

			indirectly by five or fewer companies or entities entitled to benefits under subparagraph c) of this paragraph, provided that, in the case of indirect ownership, each intermediate owner is a resident of the Contracting State from which a benefit under this Convention is being sought or is a qualifying intermediate owner; and (ii) with respect to benefits under this Convention other than under Article 10, less than 50 per cent of the company's gross income, and less than 50 per cent of the tested group's gross income, for the taxable period that includes that time, is paid or accrued, directly or indirectly, in the form of payments that are deductible in that taxable period for purposes of the taxes covered by this Convention in the company's Contracting State of residence (but not including arm's length payments in the ordinary course of business for services or tangible property, and in the case of a tested group, not including intra-group transactions) to persons that are not residents of either Contracting State entitled to the benefits of this Convention under subparagraph a), b), c) or e); (e) a person, other than an individual, that (i) is a [agreed description of the relevant non-profit organizations found in each Contracting State], (ii) is a recognized pension fund to which subdivision (i) of the definition of recognized pension fund in paragraph 1 of Article 3 applies, provided that more than 50 per cent of the beneficial interests in that person are owned by individuals resident of either Contracting State, or more than [__ per cent] of the beneficial interests in that person are owned by individuals resident of either Contracting State or of any other State with respect to which the following conditions are met (A) individuals who are residents of that other State are entitled to the benefits of a comprehensive convention for the avoidance of double taxation between that other State and the State from which the benefits of this Convention are claimed, and (B) with respect to income referred to in Articles 10 and 11 of this Convention, if the person were

			a resident of that other State entitled to all the benefits of that other convention, the person would be entitled, under such convention, to a rate of tax with respect to the particular class of income for which benefits are being claimed under this Convention that is at least as low as the rate applicable under this Convention; or (iii) is a recognized pension fund to which subdivision (ii) of the definition of recognized pension fund in paragraph 1 of Article 3 applies, provided that it is established and operated exclusively or almost exclusively to invest funds for the benefit of entities or arrangements referred to in the preceding subdivision; (f) a person other than an individual, if (i) at that time and on at least half the days of a twelve-month period that includes that time, persons who are residents of that Contracting State and that are entitled to the benefits of this Convention under subparagraph a), b), c) or e) own, directly or indirectly, shares representing at least 50 per cent of the aggregate vote and value (and at least 50 per cent of the aggregate vote and value of any disproportionate class of shares) of the shares in the person, provided that, in the case of indirect ownership, each intermediate owner is a qualifying intermediate owner, and (ii) less than 50 per cent of the person's gross income, and less than 50 per cent of the tested group's gross income, for the taxable period that includes that time, is paid or accrued, directly or indirectly, in the form of payments that are deductible for purposes of the taxes covered by this Convention in the person's Contracting State of residence (but not including arm's length payments in the ordinary course of business for services or tangible property, and in the case of a tested group, not including intra-group transactions), to persons that are not residents of either Contracting State entitled to the benefits of this Convention under subparagraph a), b), c) or e) of this paragraph; or (g) [possible provision on collective investment vehicles]; 3. (a) A resident of a Contracting State shall be entitled to benefits under this

			Convention with respect to an item of income derived from the other Contracting State, regardless of whether the resident is a qualified person, if the resident is engaged in the active conduct of a business in the first-mentioned State (other than the business of making or managing investments for the resident's own account, unless these activities are banking, insurance or securities activities carried on by a bank or [list financial institutions similar to banks that the Contracting States agree to treat as such], insurance enterprise or registered securities dealer respectively), and the income derived from the other State emanates from, or is incidental to, that business. For purposes of this Article, the term "active conduct of a business" shall not include the following activities or any combination thereof: (i) operating as a holding company; (ii) providing overall supervision or administration of a group of companies; (iii) providing group financing (including cash pooling); or (iv) making or managing investments, unless these activities are carried on by a bank [list financial institutions similar to banks that the Contracting States agree to treat as such], insurance enterprise or registered securities dealer in the ordinary course of its business as such. (b) If a resident of a Contracting State derives an item of income from a business activity conducted by that resident in the other Contracting State, or derives an item of income arising in the other State from a connected person, the conditions described in subparagraph a) shall be considered to be satisfied with respect to such item only if the business activity carried on by the resident in the first-mentioned State to which the item is related is substantial in relation to the same or complementary business activity carried on by the resident or such connected person in the other Contracting State. Whether a business activity is substantial for the purposes of this paragraph shall be determined based on all the facts and circumstances.

			(c) For purposes of applying this paragraph, activities conducted by connected persons with respect to a resident of a Contracting State shall be deemed to be conducted by such resident. 4. [A rule providing so-called derivative benefits. The question of how the derivative benefits paragraph should be drafted in a convention that follows the detailed version is discussed in the Commentary.] 5. A company that is a resident of a Contracting State that functions as a headquarters company for a multinational corporate group consisting of such company and its direct and indirect subsidiaries shall be entitled to benefits under this Convention with respect to dividends and interest paid by members of its multinational corporate group, regardless of whether the resident is a qualified person. A company shall be considered a headquarters company for this purpose only if: (a) such company's primary place of management and control is in the Contracting State of which it is a resident; (b) the multinational corporate group consists of companies resident of, and engaged in the active conduct of a business in, at least four States, and the businesses carried on in each of the four States (or four groupings of States) generate at least 10 per cent of the gross income of the group; (c) the businesses of the multinational corporate group that are carried on in any one State other than the Contracting State of residence of such company generate less than 50 per cent of the gross income of the group; (d) no more than 25 per cent of such company's gross income is derived from the other Contracting State; (e) such company is subject to the same income taxation rules in its Contracting State of residence as persons described in paragraph 3 of this Article; and (f) less than 50 per cent of such company's gross income, and less than 50 per cent of the tested group's gross income, is paid or accrued, directly or indirectly, in the form of payments that are deductible for purposes of the taxes covered by this Convention in the company's Contracting State of residence (but not including arm's

			length payments in the ordinary course of business for services or tangible property or payments in respect of financial obligations to a bank that is not a connected person with respect to such company, and in the case of a tested group, not including intra-group transactions) to persons that are not residents of either Contracting State entitled to the benefits of this Convention under subparagraph a), b), c) or e) of paragraph 2. If the requirements of subparagraph b), c) or d) of this paragraph are not fulfilled for the relevant taxable period, they shall be deemed to be fulfilled if the required ratios are met when averaging the gross income of the preceding four taxable periods. 6. If a resident of a Contracting State is neither a qualified person pursuant to the provisions of paragraph 2 of this Article, nor entitled to benefits under paragraph 3, 4 or 5, the competent authority of the Contracting State in which benefits are denied under the previous provisions of this Article may, nevertheless, grant the benefits of this Convention, or benefits with respect to a specific item of income or capital, taking into account the object and purpose of this Convention, but only if such resident demonstrates to the satisfaction of such competent authority that neither its establishment, acquisition or maintenance, nor the conduct of its operations, had as one of its principal purposes the obtaining of benefits under this Convention. The competent authority of the Contracting State to which a request has been made, under this paragraph, by a resident of the other State, shall consult with the competent authority of that other State before either granting or denying the request. 7. For the purposes of this and the previous paragraphs of this Article: (a) the term “recognized stock exchange” means: (i) [list of stock exchanges agreed to at the time of signature]; and (ii) any other stock exchange agreed upon by the competent authorities of the Contracting States; (b) with respect to entities that are not companies, the term “shares” means interests that are comparable to shares;

			(c) the term “principal class of shares” means the ordinary or common shares of the company or entity, provided that such class of shares represents the majority of the aggregate vote and value of the company or entity. If no single class of ordinary or common shares represents the majority of the aggregate vote and value of the company or entity, the “principal class of shares” are those classes that in the aggregate represent a majority of the aggregate vote and value; (d) two persons shall be “connected persons” if one owns, directly or indirectly, at least 50 per cent of the beneficial interest in the other (or, in the case of a company, at least 50 per cent of the aggregate vote and value of the company’s shares) or another person owns, directly or indirectly, at least 50 per cent of the beneficial interest (or, in the case of a company, at least 50 per cent of the aggregate vote and value of the company’s shares) in each person. In any case, a person shall be connected to another if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same person or persons. (e) the term “equivalent beneficiary” means: (i) a resident of any State, provided that: (A) the resident is entitled to all the benefits of a comprehensive convention for the avoidance of double taxation between that State and the Contracting State from which the benefits of this Convention are sought, under provisions substantially similar to subparagraph a), b), c) or e) of paragraph 2 or, when the benefit being sought is with respect to interest or dividends paid by a member of the resident’s multinational corporate group, the resident is entitled to benefits under provisions substantially similar to paragraph 5 of this Article in such convention, provided that, if such convention does not contain a detailed limitation on benefits article, such convention shall be applied as if the provisions of subparagraphs a), b), c) and e) of paragraph 2 (including the definitions relevant to the application of the tests in such subparagraphs) were contained in such convention; and

			(B) (1) with respect to income referred to in Article 10, 11, 12 or 12A if the resident had received such income directly, the resident would be entitled under such Convention, a provision of domestic law or any international agreement, to a rate of tax with respect to such income for which benefits are being sought under this Convention that is less than or equal to the rate applicable under this Convention. Regarding a company seeking, under paragraph 4, the benefits of Article 10 with respect to dividends, for purposes of this subclause: (I) if the resident is an individual, and the company is engaged in the active conduct of a business in its Contracting State of residence that is substantial in relation, and similar or complementary, to the business that generated the earnings from which the dividend is paid, such individual shall be treated as if he or she were a company. Activities conducted by a person that is a connected person with respect to the company seeking benefits shall be deemed to be conducted by such company. Whether a business activity is substantial shall be determined based on all the facts and circumstances; and (II) if the resident is a company (including an individual treated as a company), to determine whether the resident is entitled to a rate of tax that is less than or equal to the rate applicable under this Convention, the resident's indirect holding of the capital of the company paying the dividends shall be treated as a direct holding; or (2) with respect to an item of income referred to in Article 7, 13 or 21 of this Convention, the resident is entitled to benefits under such Convention that are at least as favorable as the benefits that are being sought under this Convention; and (C) notwithstanding that a resident may satisfy the requirements of clauses A) and B) of this subdivision, where the item of income has been derived through an entity that is treated as fiscally transparent under the laws of the Contracting State of residence of the company seeking benefits, if the item of income would not be treated as the income of the resident

			under a provision analogous to paragraph 2 of Article 1 had the resident, and not the company seeking benefits under paragraph 4 of this Article, itself owned the entity through which the income was derived by the company, such resident shall not be considered an equivalent beneficiary with respect to the item of income; (ii) a resident of the same Contracting State as the company seeking benefits under paragraph 4 of this Article that is entitled to all the benefits of this Convention by reason of subparagraph a), b), c) or e) of paragraph 2 or, when the benefit being sought is with respect to interest or dividends paid by a member of the resident's multinational corporate group, the resident is entitled to benefits under paragraph 5, provided that, in the case of a resident described in paragraph 5, if the resident had received such interest or dividends directly, the resident would be entitled to a rate of tax with respect to such income that is less than or equal to the rate applicable under this Convention to the company seeking benefits under paragraph 4; or (iii) a resident of the Contracting State from which the benefits of this Convention are sought that is entitled to all the benefits of this Convention by reason of subparagraph a), b), c) or e) of paragraph 2, provided that all such residents' ownership of the aggregate vote and value of the shares (and any disproportionate class of shares) of the company seeking benefits under paragraph 4 does not exceed 25 per cent of the total vote and value of the shares (and any disproportionate class of shares) of the company; (f) the term "disproportionate class of shares" means any class of shares of a company or entity resident in one of the Contracting States that entitles the shareholder to disproportionately higher participation, through dividends, redemption payments or otherwise, in the earnings generated in the other Contracting State by particular assets or activities of the company; (g) a company's or entity's "primary place of management and control" is in the Contracting State of which it is a resident only if:

			(i) the executive officers and senior management employees of the company or entity exercise day-to-day responsibility for more of the strategic, financial and operational policy decision making for the company or entity and its direct and indirect subsidiaries, and the staff of such persons conduct more of the day-to-day activities necessary for preparing and making those decisions, in that Contracting State than in any other State; and (ii) such executive officers and senior management employees exercise day-to-day responsibility for more of the strategic, financial and operational policy decision-making for the company or entity and its direct and indirect subsidiaries, and the staff of such persons conduct more of the day-today activities necessary for preparing and making those decisions, than the officers or employees of any other company or entity; (h) the term "qualifying intermediate owner" means an intermediate owner that is either: (i) a resident of a State that has in effect with the Contracting State from which a benefit under this Convention is being sought a comprehensive convention for the avoidance of double taxation; or (ii) a resident of the same Contracting State as the company applying the test under subparagraph d) or f) of paragraph 2 or paragraph 4 to determine whether it is eligible for benefits under the Convention; (i) the term "tested group" means the resident of a Contracting State that is applying the test under subparagraph d) or f) of paragraph 2 or under paragraph 4 or 5 to determine whether it is eligible for benefits under the Convention (the "tested resident"), and any company or permanent establishment that: (i) participates as a member with the tested resident in a tax consolidation, fiscal unity or similar regime that requires members of the group to share profits or losses; or (ii) shares losses with the tested resident pursuant to a group relief or other loss sharing regime in the relevant taxable period; [and]

			(j) the term “gross income” means gross receipts as determined in the person’s Contracting State of residence for the taxable period that includes the time when the benefit would be accorded, except that where a person is engaged in a business that includes the manufacture, production or sale of goods, “gross income” means such gross receipts reduced by the cost of goods sold, and where a person is engaged in a business of providing non-financial services, “gross income” means such gross receipts reduced by the direct costs of generating such receipts, provided that: (i) except when relevant for determining benefits under Article 10 of this Convention, gross income shall not include the portion of any dividends that are effectively exempt from tax in the person’s Contracting State of residence, whether through deductions or otherwise; and (ii) except with respect to the portion of any dividend that is taxable, a tested group’s gross income shall not take into account transactions between companies within the tested group; [and] 8. (a) Where (i) an enterprise of a Contracting State derives income from the other Contracting State and the first-mentioned State treats such income as attributable to a permanent establishment of the enterprise situated in a third jurisdiction, and (ii) the profits attributable to that permanent establishment are exempt from tax in the first-mentioned State, the benefits of this Convention shall not apply to any item of income on which the tax in the third jurisdiction is less than the lower of [rate to be determined bilaterally] of the amount of that item of income and 60 per cent of the tax that would be imposed in the first-mentioned State on that item of income if that permanent establishment were situated in the first-mentioned State. In such a case any income to which the provisions of this paragraph apply shall remain taxable according to the domestic law of the other State, notwithstanding any other provisions of the Convention. (b) The preceding provisions of this paragraph shall not apply if the income derived

			from the other State emanates from, or is incidental to, the active conduct of a business carried on through the permanent establishment (other than the business of making, managing or simply holding investments for the enterprise's own account, unless these activities are banking, insurance or securities activities carried on by a bank, insurance enterprise or registered securities dealer, respectively). (c) If benefits under this Convention are denied pursuant to the preceding provisions of this paragraph with respect to an item of income derived by a resident of a Contracting State, the competent authority of the other Contracting State may, nevertheless, grant these benefits with respect to that item of income if, in response to a request by such resident, such competent authority determines that granting such benefits is justified in light of the reasons such resident did not satisfy the requirements of this paragraph (such as the existence of losses). The competent authority of the Contracting State to which a request has been made under the preceding sentence shall consult with the competent authority of the other Contracting State before either granting or denying the request. 9. Notwithstanding the other provisions of this Convention, a benefit under this Convention shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention.

			Article 30 ENTRY INTO FORCE 1. This Convention shall be ratified and the instruments of ratification shall be exchanged at ___ as soon as possible. 2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect: (a) (In State A): ..... (b) (In State B): .....
			Article 31 TERMINATION This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year ____. In such event, the Convention shall cease to have effect: (a) (In State A): ..... (b) (In State B): .....

Anexo III – Convenções modelos de dupla tributação da OCDE de 1963, 1977, 1992 e 1998

Modelo CDT OCDE/1963	Modelo CDT OCDE/1977	Modelo CDT OCDE/1992	Modelo CDT OCDE/1998
Convention between (State A) and (State B) for the avoidance of double taxation with respect to taxes on income and on capital	Convention between (State A) and (State B) for the avoidance of double taxation with respect to taxes on income and on capital	Convention between (State A) and (State B) with respect to taxes on income and on capital	Convention between (State A) and (State B) with respect to taxes on income and on capital
PREAMBLE OF THE CONVENTION	PREAMBLE OF THE CONVENTION	PREAMBLE OF THE CONVENTION	PREAMBLE OF THE CONVENTION
Article 1 PERSONAL SCOPE This Convention shall apply to persons who are residents of one or both of the Contracting States.	Article 1 PERSONAL SCOPE This Convention shall apply to persons who are residents of one or both of the Contracting States.	Article 1 PERSONAL SCOPE This Convention shall apply to persons who are residents of one or both of the Contracting States.	Article 1 PERSONS COVERED This Convention shall apply to persons who are residents of one or both of the Contracting States.
Article 2 TAXES COVERED 1. This Convention shall apply to taxes on income and on capital imposed on behalf of each Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied. 2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation. 3. The existing taxes to which the Convention shall apply are, in particular: a) In the case of (State A)..... b) In the case of (State B)..... 4. The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes. At the end of each year, the competent authorities of the Contracting States shall notify to each other any changes which have been made in their respective taxation laws.	Article 2 TAXES COVERED 1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied. 2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation. 3. The existing taxes to which the Convention shall apply are in particular: a) (in State A): ..... b) (in State B): ..... 4. 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. At the end of each year, the competent authorities of the Contracting States shall notify each other of changes which have been made in their respective taxation laws.	Article 2 TAXES COVERED 1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied. 2. Them shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation. 3. The existing taxes to which the Convention shall apply are in particular: a) (in State A): ..... b) (in State B): ..... 4. 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. At the end of each year, the competent authorities of the Contracting States shall notify each other of changes which have been made in their respective taxation laws.	Article 2 TAXES COVERED 1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied. 2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation. 3. The existing taxes to which the Convention shall apply are in particular: a) (in State A): ..... b) (in State B): ..... 4. 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. At the end of each year, the competent authorities of the Contracting States shall notify each other of changes which have been made in their respective taxation laws.

Article 3 GENERAL DEFINITIONS 1. In this Convention, unless the context otherwise requires: a) the terms "a Contracting State" and "the other Contracting State" mean (State A) or (State B), as the context requires; b) the term "person" comprises an individual, a company and any other body of persons; c) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes; d) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State; e) the term "competent authority" means 1. in (State A)..... 2. in (State B)..... 2. As regards the application of the Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the Convention.	Article 3 GENERAL DEFINITIONS 1. For the purposes of this Convention, unless the context otherwise requires: a) the term "person" includes an individual, a company and any other body of persons; b) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes; c) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State; d) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which 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; e) the term "competent authority" means: (i) (in State A): (ii) (in State B): 2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.	Article 3 GENERAL DEFINITIONS 1. For the purposes of this Convention, unless the context otherwise requires: a) the term "person" includes an individual, a company and any other body of persons; b) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes; c) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State; d) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which 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; e) the term "competent authority" means: (i) (in State A): (ii) (in State B): f) the term "national" means: (i) any individual possessing the nationality of a Contracting State; (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State. 2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.	Article 3 GENERAL DEFINITIONS 1. For the purposes of this Convention, unless the context otherwise requires: a) the term "person" includes an individual, a company and any other body of persons; b) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes; c) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State; 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; e) the term "competent authority" means: (i) (in State A): (ii) (in State B): f) the term "national" means: (i) any individual possessing the nationality of a Contracting State; (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State. 2. As regards the application of the Convention at any time by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4 FISCAL DOMICILE 1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. 2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then this case shall be determined in accordance with the following rules: a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests); b) If the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode; c) If he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national; d) If he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement. 3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.	Article 4 RESIDENT 1. For the purposes of this Convention, 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 a similar nature. But this term does not include any person who is liable to in that State in respect only of income from sources in that State or capital, situated therein. 2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows: a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests); b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode; c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national; d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement. 3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.	Article 4 RESIDENT 1. For the purposes of this Convention, 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. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein. 2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows: a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests); b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode; c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national; d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement. 3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.	Article 4 RESIDENT 1. For the purposes of this Convention, 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. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein. 2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows: a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests); b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode; c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national; d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement. 3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

Article 5 PERMANENT ESTABLISHMENT 1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on. 2. The term "permanent establishment" shall include especially: a) a place of management; b) a branch; c) an office; d) a factory; e) a workshop; f) a mine, quarry or other place of extraction of natural resources; g) a building site or construction or assembly project which exists for more than twelve months. 3. The term "permanent establishment" shall not be deemed to include: a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise; b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery; c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise; e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise. 4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State — other than an agent of an independent status to whom paragraph 5 applies — shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise. 5. An enterprise of a	Article 5 PERMANENT ESTABLISHMENT 1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on. 2. The term "permanent establishment" includes especially: a) a place of management; b) a branch; c) an office; d) a factory; e) a workshop, and f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources. 3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months. 4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include: a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise; b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery; c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise; d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise; e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character; f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character. 5. Notwithstanding the provisions of paragraphs 1 and 2, where a person—other than an agent of an independent status to whom paragraph 6 applies—is acting on behalf of	Article 5 PERMANENT ESTABLISHMENT 1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on. 2. The term "permanent establishment" includes especially: a) a place of management; b) a branch; c) an office; d) a factory; e) a workshop, and f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources. 3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months. 4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include: a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise; b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery; c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise; d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise; e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character; f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character. 5. Notwithstanding the provisions of paragraphs 1 and 2, where a person— other than an agent of an independent status to whom paragraph 6 applies—is acting on behalf of	Article 5 PERMANENT ESTABLISHMENT 1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on. 2. The term "permanent establishment" includes especially: a) a place of management; b) a branch; c) an office; d) a factory; e) a workshop, and f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources. 3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months. 4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include: a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise; b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery; c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise; d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise; e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character; the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character. 5. Notwithstanding the provisions of paragraphs 1 and 2, where a person — other than an agent of an independent status to whom paragraph 6 applies — is

Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business. 6. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.	an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph. 6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. 7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.	an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph. 6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. 7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.	acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph. 6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. 7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.
Article 6 INCOME FROM IMMOVABLE PROPERTY 1. Income from immovable property may be taxed in the Contracting State in which such property is situated. 2. The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources ; ships, boats and aircraft shall not be regarded as immovable property. 3. The provisions of paragraph	Article 6 INCOME FROM IMMOVABLE PROPERTY 1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State. 2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural	Article 6 INCOME FROM IMMOVABLE PROPERTY 1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State. 2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural	Article 6 INCOME FROM IMMOVABLE PROPERTY 1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State. 2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural

1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property. 4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.	resources; ships, boats and aircraft shall not be regarded as immovable property. 3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property. 4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.	resources; ships, boats and aircraft shall not be regarded as unmovable property. 3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property. 4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.	resources; ships, boats and aircraft shall not be regarded as immovable property. 3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property. 4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.
Article 7 BUSINESS PROFITS 1. 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. 2. Where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment. 3. 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 permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. 4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an	Article 7 BUSINESS PROFITS 1. 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. 2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment. 3. 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. 4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an	Article 7 BUSINESS PROFITS 1. 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. 2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment. 3. 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. 4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an	Article 7 BUSINESS PROFITS 1. 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. 2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment. 3. 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. 4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an

apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article. 5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise. 6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary. 7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.	apportionment as may be customary; the method of apportionment adopted shalt, however, be such that the result shall be in accordance with the principles contained in this Article. 5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise. 6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary. 7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.	apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article. 5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise. 6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary. 7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.	apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article. 5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise. 6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary. 7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.
Article 8 SHIPPING, INLAND WATERWAYS TRANSPORT AND AIR TRANSPORT 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 boat, then it shall be deemed to be situated in the Contracting State in which the home harbor of the ship or boat is situated, or, if there is no such home harbor, in the Contracting State of which the operator of the ship or boat is a resident.	Article 8 SHIPPING, INLAND WATERWAYS TRANSPORT AND AIR TRANSPORT 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 boat, then it shall be deemed to be situated in the Contracting State in which the home harbor of the ship or boat is situated, or, if there is no such home harbor, 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 SHIPPING, INLAND WATERWAYS TRANSPORT AND AIR TRANSPORT 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 boat, then it shall be deemed to be situated in the Contracting State in which the home harbor of the ship or boat is situated, or, if there is no such home harbor, 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 SHIPPING, INLAND WATERWAYS TRANSPORT AND MR TRANSPORT 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 boat, then it shall be deemed to be situated in the Contracting State in which the home harbor of the ship or boat is situated, or, if there is no such home harbor, 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 9 ASSOCIATED ENTERPRISES Where a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.	Article 9 ASSOCIATED ENTERPRISES 1. Where a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly. 2. Where a Contracting State includes in the profits of an enterprise of that State—and taxes accordingly—profits on which an enterprise of the other Contracting State has been charged to tax In that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.	Article 9 ASSOCIATED ENTERPRISES 1. Where a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly. 2. Where a Contracting State includes in the profits of an enterprise of that State—and taxes accordingly—profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.	Article 9 ASSOCIATED ENTERPRISES 1. Where a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly. 2. Where a Contracting State includes in the profits of an enterprise of that State — and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10 DIVIDENDS 1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State. 2. However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but the tax so charged shall not exceed: a) 5 per cent of the gross amount of the dividends if the recipient is a company (excluding partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends; b) in all other cases, 15 per cent of the gross amount of the dividends. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid. 3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident. 4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article 7 shall apply. 5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to persons who are not residents of that other State, or subject the company's undistributed profits to a tax on undistributed profits, even	Article 10 DIVIDENDS 1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State. 2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed: a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends; b) 15 per cent of the gross amount of the dividends in all other cases. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations. This paragraph shall nor affect the taxation of the company in respect of the profits out of which the dividends are paid. 3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. 4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply. 5. Where a company which is	Article 10 DIVIDENDS 1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State. 2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed: a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends; b) 15 per cent of the gross amount of the dividends in all other cases. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid. 3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. 4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply. 5. Where a company which is	Article 10 DIVIDENDS 1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State. 2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed: a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends; b) 15 per cent of the gross amount of the dividends in all other cases. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid. 3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. 4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be,

if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.	a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.	a resident of a Contracting State derives profits or income from the other Contracting State, that other Slate may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.	shall apply. 5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.
Article 11 INTEREST 1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. 2. However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that State, but the tax so charged shall not exceed 10 per cent of the amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. 3. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises. 4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the provisions of Article 7 shall apply. 5. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a	Article 11 INTEREST 1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. 2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. 3. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article. 4. 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	Article 11 INTEREST 1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. 2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. 3. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article. 4. 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, though a permanent establishment situated therein, or performs in that other State independent	Article 11 INTEREST 1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. 2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. 3. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article. 4. 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

local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated. 6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.	personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply. 5. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, 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 indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated. 6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount, In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.	personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply. 5. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, 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 indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated. 6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.	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 effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply. 5. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, 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 indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated. 6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12 ROYALTIES 1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State. 2. 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, trade mark, 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. 3. The provisions of paragraph 1 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of Article 7 shall apply. 4. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.	Article 12 ROYALTIES 1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if such resident is the beneficial owner of the royalties. 2. 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, trade mark, 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. 3. The provisions of paragraph 1 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 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 such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply. 4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.	Article 12 ROYALTIES 1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if such resident is the beneficial owner of the royalties. 2. 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, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience. 3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carves on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in 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 such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply. 4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.	Article 12 ROYALTIES 1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State. 2. 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, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience. 3. The provisions of paragraph 1 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 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 such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply. 4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13 CAPITAL GAINS 1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated. 2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State. However, gains from the alienation of movable property of the kind referred to in paragraph 3 of Article 22 shall be taxable only in the Contracting State in which such movable property is taxable according to the said Article. 3. Gains from the alienation of any property other than those mentioned in paragraphs 1 and 2, shall be taxable only in the Contracting State of which the alienator is a resident.	Article 13 CAPITAL GAINS 1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State. 2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State. 3. Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. 4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.	Article 13 CAPITAL GAINS 1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State. 2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State. 3. Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. 4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.	Article 13 CAPITAL GAINS 1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State. 2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State. 3. Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. 4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.
Article 14 INDEPENDENT PERSONAL SERVICES 1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State but only so much of it as is attributable to that fixed base. 2. The term "professional services" includes, especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.	Article 14 INDEPENDENT PERSONAL SERVICES 1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base. 2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.	Article 14 INDEPENDENT PERSONAL SERVICES 1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base. 2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.	Article 14 INDEPENDENT PERSONAL SERVICES 1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base. 2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15 DEPENDENT PERSONAL SERVICES 1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State. 2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if: a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned, and b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State. 3. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.	Article 15 DEPENDENT PERSONAL SERVICES 1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State. 2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if: a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned, and b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State. 3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in internationals traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.	Article 15 DEPENDENT PERSONAL SERVICES 1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State. 2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if: a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State. 3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.	Article 15 DEPENDENT PERSONAL SERVICES 1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State. 2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if: a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State. 3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.
Article 16 DIRECTORS' FEES Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.	Article 16 DIRECTORS' FEES Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.	Article 16 DIRECTORS' FEES Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.	Article 16 DIRECTORS' FEES Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17 ARTISTES AND ATHLETES Notwithstanding the provisions of Articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.	Article 17 ARTISTES AND ATHLETES 1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State. 2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.	Article 17 ARTISTES AND SPORTSMEN 1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State. 2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.	Article 17 ARTISTES AND SPORTSMEN 1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State. 2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.
Article 18 PENSIONS Subject to the provisions of paragraph 1 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.	Article 18 PENSIONS Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.	Article 18 PENSIONS Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.	Article 18 PENSIONS Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 19 GOVERNMENTAL FUNCTIONS 1. Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof in the discharge of functions of a governmental nature may be taxed in that State. 2. The provisions of Articles 15, 16 and 18 shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or a political subdivision or a local authority thereof.	Article 19 GOVERNMENT SERVICE 1. a) 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. b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who: (i) is a national of that State; or (ii) did not become a resident of that State solely for the purpose of rendering the services. 2. a) 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 authority shall be taxable only in that State. b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State. 3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.	Article 19 GOVERNMENT SERVICE 1. a) 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. b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who: (i) is a national of that State; or (ii) did not become a resident of that State solely for the purpose of rendering the services. 2. a) 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 authority shall be taxable only in that State. b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State. 3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.	Article 19 GOVERNMENT SERVICE 1. a) 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. b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who: (i) is a national of that State; or (ii) did not become a resident of that State solely for the purpose of rendering the services. 2. a) 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 authority shall be taxable only in that State. b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State. 3. The provisions of Articles 15, 16, 17, and 18 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.
Article 20 STUDENTS Payments which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting 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 other State, provided that such payments are made to him from sources outside that other State.	Article 20 STUDENTS 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 that such payments arise from sources outside that State.	Article 20 STUDENTS 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 that such payments arise from sources outside that State.	Article 20 STUDENTS 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 that such payments arise from sources outside that State.

Article 21 INCOME NOT EXPRESSLY MENTIONED Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Convention shall be taxable only in that State.	Article 21 OTHER INCOME 1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State. 2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.	Article 21 OTHER INCOME 1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State. 2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.	Article 21 OTHER INCOME 1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State. 2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
Article 22 CAPITAL 1. Capital represented by immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated. 2. Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the performance of professional services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated. 3. Ships and aircraft operated in international traffic and boats engaged in inland waterways transport, and movable property pertaining so the operation of such ships, aircraft and boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. 4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.	Article 22 CAPITAL 1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State. 2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State. 3. Capital represented by ships and aircraft operated in international traffic and by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. 4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.	Article 22 CAPITAL 1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State. 2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State. 3. Capital represented by ships and aircraft operated in international traffic and by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. 4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.	Article 22 CAPITAL 1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State. 2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State. 3. Capital represented by ships and aircraft operated in international traffic and by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. 4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 23A EXEMPTION METHOD 1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall, subject to the provisions of paragraph 2, exempt such income or capital from tax but may, in calculating tax on the remaining income or capital of that person, apply the rate of tax which would have been applicable if the exempted income or capital had not been so exempted. 2. Where a resident of a Contracting State derives income which, in accordance with the provisions of Articles 10 and 11, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in that other Contracting State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income derived from that other Contracting State. Article 23B CREDIT METHOD 1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow: a) as a deduction from the tax on the income of that person, an amount equal to the income tax paid in that other Contracting State; b) as a deduction from the tax on the capital of that person, an amount equal to the capital tax paid in that other Contracting State. 2. The deduction in either case shall not, however, exceed that part of the income tax or capital tax, respectively, as computed before the deduction is given, which is appropriate, as the case may be, to the income or the capital which may be taxed in the other Contracting State.	Article 23 A EXEMPTION METHOD 1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall, subject to the provisions of paragraphs 2 and 3, exempt such income or capital from tax. 2. Where a resident of a Contracting State derives items of income which, in accordance with the provisions of Articles 10 and 11, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in that other State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from that other State. 3. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital. Article 23 B CREDIT METHOD 1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow: a) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other State; b) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other State. Such deduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in that other State. 2. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt	Article 23 A EXEMPTION METHOD 1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall, subject to the provisions of paragraphs 2 and 3, exempt such income or capital from tax. 2. Where a resident of a Contracting State derives items of income which, in accordance with the provisions of Articles 10 and 11, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in that other State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from that other State. 3. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital. Article 23 B CREDIT METHOD 1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow: a) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other State; b) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other State. Such deduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in that other State. 2. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt	Article 23 A EXEMPTION METHOD 1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall, subject to the provisions of paragraphs 2 and 3, exempt such income or capital from tax. 2. Where a resident of a Contracting State derives items of income which, in accordance with the provisions of Articles 10 and 11, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in that other State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from that other State. 3. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital. Article 23 B CREDIT METHOD 1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow: a) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other State; b) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other State. Such deduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in that other State. 2. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt

	from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.	from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital, of such resident, take into account the exempted income or capital.	from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

Article 24 NON-DISCRIMINATION 1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. 2. The term “nationals” means: a) all individuals possessing the nationality of a Contracting State; b) all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State. 3. Stateless persons shall not be subjected in a Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that State in the same circumstances are or may be subjected. 4. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents. 5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected. 6. In this Article the term	Article 24 NON-DISCRIMINATION 1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States. 2. The term "nationals" means: a) all individuals possessing the nationality of a Contracting State; b) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State. 3. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances are or may be subjected. 4. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents. 5. Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, or paragraph 4 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under	Article 24 NON-DISCRIMINATION 1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States. 2. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances are or may be subjected. 3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents. 4. Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, or paragraph 4 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such	Article 24 NON-DISCRIMINATION 1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States. 2. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected. 3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents. 4. Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, or paragraph 4 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the

"taxation" means taxes of every kind and description.	the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State. 6. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected. 7. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.	enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State. 5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected. 6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.	taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State. 5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected. 6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 25 MUTUAL AGREEMENT PROCEDURE 1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident. 2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention. 3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention. 4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.	Article 25 MUTUAL AGREEMENT PROCEDURE 1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting on taxation not in accordance with the provisions of the Convention. 2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States. 3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention. 4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission, consisting of representatives of the competent authorities of the Contracting States.	Article 25 MUTUAL AGREEMENT PROCEDURE 1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention. 2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States. 3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention. 4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.	Article 25 MUTUAL AGREEMENT PROCEDURE 1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention. 2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States. 3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention. 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.

Article 26 EXCHANGE OF INFORMATION 1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment or collection of the taxes which are the subject of the Convention. 2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States the obligation: a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State; b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State; c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (order public).	Article 26 EXCHANGE OF INFORMATION 1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received 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) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. 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. 2. In no case shall the provisions, of paragraph 1 be construed so as to impose on a Contracting State the obligation: a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State; b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State; c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (order public).	Article 26 EXCHANGE OF INFORMATION 1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received 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) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. 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. 2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation: a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State; b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State; c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (order public).	Article 26 EXCHANGE OF INFORMATION 1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received 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 of, or the determination of appeals in relation to, the taxes covered by the Convention. 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. 2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation: a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State; b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State; c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (order public).
Article 27 DIPLOMATIC AND CONSULAR OFFICIALS Nothing in this Convention shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.	Article 27 DIPLOMATIC AGENTS AND CONSULAR OFFICERS Nothing in this Convention shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.	Article 27 DIPLOMATIC AGENTS AND CONSULAR OFFICERS Nothing in this Convention shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.	Article 27 MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

Article 28 TERRITORIAL EXTENSION 1. This Convention may be extended, either in its entirety or with any necessary modifications, [to any part of the territory of (State A) or of (State B) which is specifically excluded from the application of the Convention or] to any State or territory for whose international relations (State A) or (State B) is responsible, which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures. 2. Unless otherwise agreed by both Contracting States, the denunciation of the Convention by one of them under Article 30 shall terminate, in the manner provided for in that Article, the application of the Convention [to any part of the territory of (State A) or of (State B) or] to any State or territory to which it has been extended under this Article.	Article 28 TERRITORIAL EXTENSION 1. This Convention may be extended, either in its entirety or with any necessary modifications [to any part of the territory of (State A) or of (State B) which is specifically excluded from the application of the Convention or], to any State or territory for whose international relations (State A) or (State B) is responsible, which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures. 2. Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under Article 30 shall also terminate, in the manner provided for in that Article, the application of the Convention [to any part of the territory of (State A) or of (State. B) or] to any State or territory to which it has been extended under this Article.	Article 28 TERRITORIAL EXTENSION 1. This Convention may be extended, either in its entirety or with any necessary modifications [to any part of the territory of (State A) or of (State B) which is specifically excluded from the application of the Convention or], to any State or territory for whose international relations (State A) or (State B) is responsible, which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures. 2. Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under Article 30 shall also terminate, in the manner provided for in that Article, the application of the Convention [to any part of the territory of (State A) or of (State B) or] to any State or territory to which it has been extended under this Article.	Article 28 TERRITORIAL EXTENSION 1. This Convention may be extended, either in its entirety or with any necessary modifications [to any part of the territory of (State A) or of (State B) which is specifically excluded from the application of the Convention or], to any State or territory for whose international relations (State A) or (State B) is responsible, which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures. 2. Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under Article 30 shall also terminate, in the manner provided for in that Article, the application of the Convention [to any part of the territory of (State A) or of (State B) or] to any State or territory to which it has been extended under this Article.
Article 29 ENTRY INTO FORCE 1. This Convention shall be ratified and the instruments of ratification shall be exchanged at .... as soon as possible. 2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect: a) in (State A): b) in (State B):	Article 29 ENTRY INTO FORCE 1. This Convention shall be ratified and the instruments of ratification shall be exchanged at ...... as soon as possible. 2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect: a) (in State A): b) (in State B):	Article 29 ENTRY INTO FORCE 1. This Convention shall be ratified and the instruments of ratification shall be exchanged at ...... as soon as possible. 2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect: a) (in State A): b) (in State B):	Article 29 ENTRY INTO FORCE 1. This Convention shall be ratified and the instruments of ratification shall be exchanged at .... as soon as possible. 2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect: a) (in State A): b) (in State B):

Article 30 TERMINATION This Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention, through diplomatic channels, by giving notice of termination at least six In such months before the end of any calendar year after the year event, the Convention shall cease to have effect: a) in (State A): b) in (State B):	Article 30 TERMINATION This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year ... In such event, the Convention shall cease to have effect: a) (in State A): b) (in State B):	Article 30 TERMINATION This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year ... In such event, the Convention shall cease to have effect: a) (in State A): b) (in State B):	Article 30 TERMINATION This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year ... In such event, the Convention shall cease to have effect: a) (in State A): b) (in State B):

Anexo IV – Convenções modelos de dupla tributação da OCDE de 2000, 2003, 2005 e 2008

Modelo CDT OCDE/2000	Modelo CDT OCDE/2003	Modelo CDT OCDE/2005	Modelo CDT OCDE/2008
Convention between (State A) and (State B) with respect to taxes on income and on capital	Convention between (State A) and (State B) with respect to taxes on income and on capital	Convention between (State A) and (State B) with respect to taxes on income and on capital	Convention between (State A) and (State B) with respect to taxes on income and on capital
PREAMBLE OF THE CONVENTION	PREAMBLE OF THE CONVENTION	PREAMBLE OF THE CONVENTION	PREAMBLE OF THE CONVENTION
Article 1 PERSONS COVERED This Convention shall apply to persons who are residents of one or both of the Contracting States.	Article 1 PERSONS COVERED This Convention shall apply to persons who are residents of one or both of the Contracting States.	Article 1 PERSONS COVERED This Convention shall apply to persons who are residents of one or both of the Contracting States.	ARTICLE 1 PERSONS COVERED This Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2 TAXES COVERED 1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied. 2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation. 3. The existing taxes to which the Convention shall apply are in particular: a) (in State A): b) (in State B): 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.	Article 2 TAXES COVERED 1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied. 2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation. 3. The existing taxes to which the Convention shall apply are in particular: a) (in State A): b) (in State B): 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.	Article 2 TAXES COVERED 1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied. 2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation. 3. The existing taxes to which the Convention shall apply are in particular: a) (in State A): b) (in State B): 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.	ARTICLE 2 TAXES COVERED 1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied. 2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation. 3. The existing taxes to which the Convention shall apply are in particular: a) (in State A): b) (in State B): 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.

Article 3 GENERAL DEFINITIONS 1. For the purposes of this Convention, unless the context otherwise requires: a) the term "person" includes an individual, a company and any other body of persons; b) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes; c) the term "enterprise" applies to the carrying on of any business; d) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State; 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 the ship or aircraft is operated solely between places in the other Contracting State; f) the term "competent authority" means: (i) (in State A): (ii) (in State B): g) the term "national" means: (i) any individual possessing the nationality of a Contracting State; (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State; h) the term "business" includes the performance of professional services and of other activities of an independent character. 2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.	Article 3 GENERAL DEFINITIONS 1. For the purposes of this Convention, unless the context otherwise requires: a) the term "person" includes an individual, a company and any other body of persons; b) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes; c) the term "enterprise" applies to the carrying on of any business; d) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State; 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 the ship or aircraft is operated solely between places in the other Contracting State; f) the term "competent authority" means: (i) (in State A): (ii) (in State B): g) 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; h) the term "business" includes the performance of professional services and of other activities of an independent character. 2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.	Article 3 GENERAL DEFINITIONS 1. For the purposes of this Convention unless the context otherwise requires: a) the term "person" includes an individual, a company and any other body of persons; b) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes; c) the term "enterprise" applies to the carrying on of any business; d) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State; 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 the ship or aircraft is operated solely between places in the other Contracting State; f) the term "competent authority" means: (i) (in State A): (ii) (in State B): g) 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; h) the term "business" includes the performance of professional services and of other activities of an independent character. 2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.	ARTICLE 3 GENERAL DEFINITIONS 1. For the purposes of this Convention, unless the context otherwise requires: a) the term "person" includes an individual, a company and any other body of persons; b) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes; c) the term "enterprise" applies to the carrying on of any business; d) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State; 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 the ship or aircraft is operated solely between places in the other Contracting State; f) the term "competent authority" means: (i) (in State A): (ii) (in State B): g) 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; h) the term "business" includes the performance of professional services and of other activities of an independent character. 2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4 RESIDENT 1. For the purposes of this Convention, 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. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein. 2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows: a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests); b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode; c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national; d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement. 3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.	Article 4 RESIDENT 1. For the purposes of this Convention, 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. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein. 2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his slams shall be determined as follows: a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests); b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode; c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national; d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement. 3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.	Article 4 RESIDENT 1. For the purposes of this Convention, 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. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein. 2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows: a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests); b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode; c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national; d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement. 3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.	ARTICLE 4 RESIDENT 1. For the purposes of this Convention, 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. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein. 2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows: a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests); b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode; c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national; d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement. 3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

Article 5 PERMANENT ESTABLISHMENT 1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on. 2. The term "permanent establishment" includes especially: a) a place of management; b) a branch; c) an office; d) a factory; e) a workshop, and f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources. 3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months. 4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include: a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise; b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery; c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise; d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise; e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character; f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character. 5. Notwithstanding the provisions of paragraphs 1 and 2, where a person — other than an agent of an independent status to whom paragraph 6 applies — is	Article 5 PERMANENT ESTABLISHMENT 1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on. 2. The term "permanent establishment" includes especially: a) a place of management; b) a branch; c) an office; d) a factory; e) a workshop, and f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources. 3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months. 4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include: a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise; b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery; c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise; d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise; e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character; f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character. 5. Notwithstanding the provisions of paragraphs I and 2, where a person — other than an agent of an independent status to whom paragraph 6 applies — is	Article 5 PERMANENT ESTABLISHMENT 1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on. 2. The term "permanent establishment" includes especially: a) a place of management; b) a branch; c) an office; d) a factory; e) a workshop, and f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources. 3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months. 4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include: a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise; b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery; c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise; d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise; e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character; f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character. 5. Notwithstanding the provisions of paragraphs 1 and 2, where a person — other than an agent of an independent status to whom paragraph 6 applies—is acting	ARTICLE 5 PERMANENT ESTABLISHMENT 1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on. 2. The term "permanent establishment" includes especially: a) a place of management; b) a branch; c) an office; d) a factory; e) a workshop, and f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources. 3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months. 4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include: a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise; b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery; c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise; d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise; e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character; f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character. 5. Notwithstanding the provisions of paragraphs 1 and 2, where a person — other than an agent of an independent status to whom paragraph 6 applies — is

acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph. 6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. 7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.	acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph. 6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. 7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.	on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph. 6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. 7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.	acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph. 6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. 7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.
Article 6 INCOME FROM IMMOVABLE PROPERTY 1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State. 2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural	Article 6 INCOME FROM IMMOVABLE PROPERTY 1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State. 2. The term "immovable property' shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural	Article 6 INCOME FROM IMMOVABLE PROPERTY 1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State. 2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the previsions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural	ARTICLE 6 INCOME FROM IMMOVABLE PROPERTY 1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State. 2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural

resources; ships, boats and aircraft shall not be regarded as immovable property. 3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property. 4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.	resources; ships, boats and aircraft shall not be regarded as immovable property. 3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property. 4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.	resources; ships, boats and aircraft shall not be regarded as immovable property. 3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property. 4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.	resources; ships, boats and aircraft shall not be regarded as immovable property. 3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property. 4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.
Article 7 BUSINESS PROFITS 1. 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. 2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment. 3. 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. 4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall,	Article 7 BUSINESS PROFITS 1. 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. 2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment. 3. 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. 4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall,	Article 7 BUSINESS PROFITS 1. 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. 2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment. 3. 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. 4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall,	ARTICLE 7 BUSINESS PROFITS 1. 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. 2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment. 3. 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. 4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall,

however, be such that the result shall be in accordance with the principles contained in this Article. 5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise. 6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary. 7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.	however, be such that the result shall be in accordance with the principles contained in this Article. 5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise. 6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary. 7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.	however, be such that the result shall be in accordance with the principles contained in this Article. 5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise. 6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary. 7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.	however, be such that the result shall be in accordance with the principles contained in this Article. 5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise. 6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary. 7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.
Article 8 SHIPPING, INLAND WATERWAYS TRANSPORT AND AIR TRANSPORT 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 boat, then it shall be deemed to be situated in the Contracting State in which the home harbor of the ship or boat is situated, or, if there is no such home harbor, 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 SHIPPING, INLAND WATERWAYS TRANSPORT AND AIR TRANSPORT 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 boat, then it shall be deemed to be situated in the Contracting State in which the home harbor of the ship or boat is situated, or, if there is no such home harbor, 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 SHIPPING, INLAND WATERWAYS TRANSPORT AND AIR TRANSPORT 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 boat, then it shall be deemed to be situated in the Contracting State in which the home harbor of the ship or boat is situated, or, if there is no such home harbor, 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 SHIPPING, INLAND WATERWAYS TRANSPORT AND AIR TRANSPORT 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 boat, then it shall be deemed to be situated in the Contracting State in which the home harbor of the ship or boat is situated, or, if there is no such home harbor, 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 9 ASSOCIATED ENTERPRISES 1. Where a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly. 2. Where a Contracting State includes in the profits of an enterprise of that State—and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.	Article 9 ASSOCIATED ENTERPRISES 1. Where a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly. 2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.	Article 9 ASSOCIATED ENTERPRISES 1. Where a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly. 2. Where a Contracting State includes in the profits of an enterprise of that State — and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.	ARTICLE 9 ASSOCIATED ENTERPRISES 1. Where a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly. 2. Where a Contracting State includes in the profits of an enterprise of that State — and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10 DIVIDENDS 1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State. 2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed: a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends; b) 15 per cent of the gross amount of the dividends in all other cases. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid. 3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. 4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply. 5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other	Article 10 DIVIDENDS 1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State. 2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed: a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends; b) 15 per cent of the gross amount of the dividends in all other cases. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid. 3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. 4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply. 5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not	Article 10 DIVIDENDS 1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State. 2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed: a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends; b) 15 per cent of the gross amount of the dividends in all other cases. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid. 3. The term "dividends' as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. 4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply. 5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not	ARTICLE 10 DIVIDENDS 1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State. 2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed: a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends; b) 15 per cent of the gross amount of the dividends in all other cases. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid. 3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. 4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply. 5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not

State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.	impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.	impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.	impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.
Article 11 INTEREST 1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. 2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. 3. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article. 4. 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 establishment. In such case the provisions of	Article 11 INTEREST 1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. 2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. 3. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article. 4. 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 establishment. In such case the provisions of	Article 11 INTEREST 1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. 2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. 3. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article. 4. 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 establishment. In such case the provisions of	ARTICLE 11 INTEREST 1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. 2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. 3. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article. 4. 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 establishment. In such case the provisions of

Article 7 shall apply. 5. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated. 6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.	Article 7 shall apply. 5. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated. 6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.	Article 7 shall apply. 5. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated. 6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.	Article 7 shall apply. 5. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated. 6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12 ROYALTIES 1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State. 2. 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, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience. 3. The provisions of paragraph 1 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 and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply. 4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.	Article 12 ROYALTIES 1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State. 2. 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, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience. 3. The provisions of paragraph 1 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 and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply. 4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.	Article 12 ROYALTIES 1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State. 2. 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, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience. 3. The provisions of paragraph 1 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 and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply. 4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.	ARTICLE 12 ROYALTIES 1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State. 2. 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, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience. 3. The provisions of paragraph 1 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 and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply. 4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13 CAPITAL GAINS 1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State. 2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State. 3. Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. 4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.	Article 13 CAPITAL GAINS 1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State. 2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State. 3. Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. 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 property situated in the other Contracting State may be taxed in that other State. 5. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Contracting State of which the alienator is a resident.	Article 13 CAPITAL GAINS 1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State. 2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State. 3. Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. 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 property situated in the other Contracting State may be taxed in that other State. 5. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Contracting State of which the alienator is a resident.	ARTICLE 13 CAPITAL GAINS 1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State. 2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State. 3. Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. 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 property situated in the other Contracting State may be taxed in that other State. 5. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Contracting State of which the alienator is a resident.
[Article 14 - INDEPENDENT PERSONAL SERVICES] [Deleted]	[Article 14 - INDEPENDENT PERSONAL SERVICES] [Deleted]	[Article 14 - INDEPENDENT PERSONAL SERVICES] [Deleted]	[Article 14 - INDEPENDENT PERSONAL SERVICES] [Deleted]

Article 15 INCOME FROM EMPLOYMENT 1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State. 2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if: a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and c) the remuneration is not borne by a permanent establishment which the employer has in the other State. 3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.	Article 15 INCOME FROM EMPLOYMENT 1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State. 2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if: a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and c) the remuneration is not borne by a permanent establishment which the employer has in the other State. 3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.	Article 15 INCOME FROM EMPLOYMENT 1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State. 2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if: a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and c) the remuneration is not borne by a permanent establishment which the employer has in the other State. 3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.	ARTICLE 15 INCOME FROM EMPLOYMENT 1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State. 2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if: a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and ii) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and c) the remuneration is not borne by a permanent establishment which the employer has in the other State. 3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.
Article 16 DIRECTORS' FEES Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.	Article 16 DIRECTORS' FEES Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.	Article 16 DIRECTORS' FEES Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.	ARTICLE 16 DIRECTORS' FEES Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17 ARTISTES AND SPORTSMEN 1. Notwithstanding the provisions of Articles 7 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State. 2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.	Article 17 ARTISTES AND SPORTSMEN 1. Notwithstanding the provisions of Articles 7 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State. 2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.	Article 17 ARTISTES AND SPORTSMEN 1. Notwithstanding the provisions of Articles 7 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State. 2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.	ARTICLE 17 ARTISTES AND SPORTSMEN 1. Notwithstanding the provisions of Articles 7 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State. 2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.
Article 18 PENSIONS Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.	Article 18 PENSIONS Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.	Article 18 PENSIONS Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.	ARTICLE 18 PENSIONS Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 19 GOVERNMENT SERVICE 1. a) 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. b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who: (i) is a national of that State; or (ii) did not become a resident of that State solely for the purpose of rendering the services. 2. a) 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 authority shall be taxable only in that State. b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State. 3. The provisions of Articles 15, 16, 17, and 18 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.	Article 19 GOVERNMENT SERVICE 1. a) 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. b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who: (i) is a national of that State; or (ii) did not become a resident of that State solely for the purpose of rendering the services. 2. a) 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 authority shall be taxable only in that State. b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State. 3. The provisions of Articles 15, 16, 17, and 18 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.	Article 19 GOVERNMENT SERVICE 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. b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who: (i) is a national of that State; or (ii) did not become a resident of that State solely for the purpose of rendering the services. 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 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. b) However, such pensions 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 State. 3. The provisions of Articles 15, 16, 17, and 18 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.	ARTICLE 19 GOVERNMENT SERVICE 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. b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who: (i) is a national of that State; or (ii) did not become a resident of that State solely for the purpose of rendering the services. 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 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. b) However, such pensions 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 State. 3. The provisions of Articles 15, 16, 17, and 18 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.
Article 20 STUDENTS 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 that such payments arise from sources outside that State.	Article 20 STUDENTS 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 that such payments arise from sources outside that State.	Article 20 STUDENTS 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 that such payments arise from sources outside that State.	ARTICLE 20 STUDENTS 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 that such payments arise from sources outside that State.

Article 21 OTHER INCOME 1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State. 2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.	Article 21 OTHER INCOME 1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State. 2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.	Article 21 OTHER INCOME 1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State. 2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.	ARTICLE 21 OTHER INCOME 1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State. 2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
Article 22 CAPITAL 1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State. 2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State may be taxed in that other State. 3. Capital represented by ships and aircraft operated in international traffic and by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. 4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.	Article 22 CAPITAL 1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State. 2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State may be taxed in that other State. 3. Capital represented by ships and aircraft operated in international traffic and by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. 4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.	Article 22 CAPITAL 1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State. 2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State may be taxed in that other State. 3. Capital represented by ships and aircraft operated in international traffic and by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. 4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.	ARTICLE 22 CAPITAL 1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State. 2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State may be taxed in that other State. 3. Capital represented by ships and aircraft operated in international traffic and by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. 4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 23 A EXEMPTION METHOD 1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall, subject to the provisions of paragraphs 2 and 3, exempt such income or capital from tax. 2. Where a resident of a Contracting State derives items of income which, in accordance with the provisions of Articles 10 and 11, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in that other State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from that other State. 3. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital. 4. The provisions of paragraph 1 shall not apply to income derived or capital owned by a resident of a Contracting State where the other Contracting State applies the provisions of this Convention to exempt such income or capital from tax or applies the provisions of paragraph 2 of Article 10 or 11 to such income. Article 23 B CREDIT METHOD 1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow: a) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other State; b) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other State. Such deduction in either case shall not, however, exceed that part of the income tax or	Article 23 A EXEMPTION METHOD 1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall, subject to the provisions of paragraphs 2 and 3, exempt such income or capital from tax. 2. Where a resident of a Contracting State derives items of income which, in accordance with the provisions of Articles 10 and 11, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in that other State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from that other State. 3. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital. 4. The provisions of paragraph 1 shall not apply to income derived or capital owned by a resident of a Contracting State where the other Contracting State applies the provisions of the Convention to exempt such income or capital from tax or applies the provisions of paragraph 2 of Article 10 or 11 to such income. Article 23 B CREDIT METHOD 1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow: a) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other State; b) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other State. Such deduction in either case shall not, however, exceed that part of the income tax or	Article 23 A EXEMPTION METHOD 1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall, subject to the provisions of paragraphs 2 and 3, exempt such income or capital from tax. 2. Where a resident of a Contracting State derives items of income which, in accordance with the provisions of Articles 10 and 11, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in that other State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from that other State. 3. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital. 4. The provisions of paragraph 1 shall not apply to income derived or capital owned by a resident of a Contracting State where the other Contracting State applies the provisions of the Convention to exempt such income or capital from tax or applies the provisions of paragraph 2 of Article 10 or 11 to such income. Article 23 B CREDIT METHOD 1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow: a) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other State; b) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other State. Such deduction in either case shall not, however, exceed that part of the income tax or	ARTICLE 23 A EXEMPTION METHOD 1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall, subject to the provisions of paragraphs 2 and 3, exempt such income or capital from tax. 2. Where a resident of a Contracting State derives items of income which, in accordance with the provisions of Articles 10 and 11, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in that other State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from that other State. 3. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital. 4. The provisions of paragraph 1 shall not apply to income derived or capital owned by a resident of a Contracting State where the other Contracting State applies the provisions of this Convention to exempt such income or capital from tax or applies the provisions of paragraph 2 of Article 10 or 11 to such income. ARTICLE 23 B CREDIT METHOD 1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow: a) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other State; b) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other State. Such deduction in either case shall not, however, exceed that part of the income tax or

capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in that other State. 2. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.	capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in that other State. 2. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.	capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in that other State. 2. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.	capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in that other State. 2. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.
Article 24 NON-DISCRIMINATION 1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States. 2. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected. 3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.	Article 24 NON-DISCRIMINATION 1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States. 2. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected. 3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.	Article 24 NON-DISCRIMINATION 1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States. 2. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected. 3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.	ARTICLE 24 NON-DISCRIMINATION 1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States. 2. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected. 3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

4. Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, or paragraph 4 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State. 5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected. 6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.	4. Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, or paragraph 4 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State. 5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected. 6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.	4. Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, or paragraph 4 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State. 5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected. 6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.	4. Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, or paragraph 4 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State. 5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected. 6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 25 MUTUAL AGREEMENT PROCEDURE 1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention. 2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States. 3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention. 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.	Article 25 MUTUAL AGREEMENT PROCEDURE 1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention. 2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States. 3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention. 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.	Article 25 MUTUAL AGREEMENT PROCEDURE 1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention. 2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States. 3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention. 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.	ARTICLE 25 MUTUAL AGREEMENT PROCEDURE 1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention. 2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States. 3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention. 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. 5. Where, a) under paragraph 1, a person has presented a case to the competent authority of a Contracting State on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of this Convention, and b) the competent authorities are unable to reach an

			agreement to resolve that case pursuant to paragraph 2 within two years from the presentation of the case to the competent authority of the other Contracting State, any unresolved issues arising from the case shall be submitted to arbitration if the person so requests. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either State. Unless a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision, that decision shall be binding on both Contracting States and shall be implemented notwithstanding any time limits in the domestic laws of these States. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this paragraph.
Article 26 EXCHANGE OF INFORMATION 1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws 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. Any information received 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 of, or the determination of appeals in relation to the taxes referred to in the first sentence. 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. 2. In no case shall the	Article 26 EXCHANGE OF INFORMATION 1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws 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. Any information received 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 of, or the determination of appeals in relation to the taxes referred to in the first sentence. 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. 2. In no case shall the	Article 26 EXCHANGE OF INFORMATION 1. 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 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. 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 of, 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	ARTICLE 26 EXCHANGE OF INFORMATION 1. 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 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. 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 of, 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

provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation: a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State; b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State; c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (order public).	provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation: a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State; b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State; c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (order public).	the information in public court proceedings or in judicial decisions. 3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation: a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State; b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State; c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (order public). 4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information. 5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.	the information in public court proceedings or in judicial decisions. 3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation: a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State; b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State; c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (order public). 4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information. 5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 27 MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.	Article 27 ASSISTANCE IN THE COLLECTION OF TAXES 1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article. 2. The term "revenue claim" as used in this Article means an amount owed in respect of 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 this Convention or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount. 3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State. 4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not	Article 27 ASSISTANCE IN THE COLLECTION OF TAXES 1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article. 2. The term "revenue claim" as used in this Article means an amount owed in respect of 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 this Convention or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount. 3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State. 4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not	ARTICLE 27 ASSISTANCE IN THE COLLECTION OF TAXES 1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article. 2. The term "revenue claim" as used in this Article means an amount owed in respect of 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 this Convention or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount. 3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State. 4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not

	enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection. 5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State. 6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State. 7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, or b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request. 8. In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation: a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State; b) to carry out measures which	enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection. 5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State. 6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State. 7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, or b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request. 8. In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation: a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State; b) to carry out measures which	enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection. 5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State. 6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State. 7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, or b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request. 8. In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation: a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State; b) to carry out measures which

	would be contrary to public policy (order public); c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice; d) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State.	would be contrary to public policy (order public); c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice; d) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State.	would be contrary to public policy (ante public); c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice; d) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State.
Article 28 TERRITORIAL EXTENSION 1. This Convention may be extended, either in its entirety or with any necessary modifications [to any part of the territory of (State A) or of (State B) which is specifically excluded from the application of the Convention or], to any State or territory for whose international relations (State A) or (State B) is responsible, which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures. 2. Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under Article 30 shall also terminate, in the manner provided for in that Article, the application of the Convention [to any part of the territory of (State A) or of (State B) or] to any State or territory to which it has been extended under this Article.	Article 28 MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.	Article 28 MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general roles of international law or under the provisions of special agreements.	ARTICLE 28 MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

Article 29 ENTRY INTO FORCE 1. This Convention shall be ratified and the instruments of ratification shall be exchanged at .....as soon as possible. 2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect: a) (in State A): b) (in State B):	Article 29 TERRITORIAL EXTENSION 1. This Convention may be extended, either in its entirety or with any necessary modifications [to any part of the territory of (State A) or of (State B) which is specifically excluded from the application of the Convention or], to any State or territory for whose international relations (State A) or (State B) is responsible, which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures. 2. Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under Article 30 shall also terminate, in the manner provided for in that Article, the application of the Convention [to any part of the territory of (State A) or of (State B) or] to any State or territory to which it has been extended under this Article.	Article 29 TERRITORIAL EXTENSION 1. This Convention may be extended, either in its entirety or with any necessary modifications [to any part of the territory of (State A) or of (State B) which is specifically excluded from the application of the Convention or], to any State or territory for whose international relations (State A) or (State B) is responsible, which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures. 2. Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under Article 30 shall also terminate, in the manner provided for in that Article, the application of the Convention [to any part of the territory of (State A) or of (State B) or] to any State or territory to which it has been extended under this Article.	ARTICLE 29 TERRITORIAL EXTENSION 1. This Convention may be extended, either in its entirety or with any necessary modifications [to any part of the territory of (State A) or of (State B) which is specifically excluded from the application of the Convention or], to any State or territory for whose international relations (State A) or (State B) is responsible, which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures. 2. Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under Article 30 shall also terminate, in the manner provided for in that Article, the application of the Convention [to any part of the territory of (State A) or of (State B) or] to any State or territory to which it has been extended under this Article.
Article 30 TERMINATION This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year ... In such event, the Convention shall cease to have effect: a) (in State A): b) (in State B):	Article 30 ENTRY INTO FORCE 1. This Convention shall be ratified and the instruments of ratification shall be exchanged at.....as soon as possible. 2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect: a) (in State A): b) (in State B):	Article 30 ENTRY INTO FORCE 1. This Convention shall be ratified and the instruments of ratification shall be exchanged at.....as soon as possible. 2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect: a) (in State A): b) (in State B):	ARTICLE 30 ENTRY INTO FORCE 1. This Convention shall be ratified and the instruments of ratification shall be exchanged at....as soon as possible. 2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect: a) (in State A): b) (in State B):

	Article 31 TERMINATION This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year ... In such event, the Convention shall cease to have effect: a) (in State A): b) (in State B):	Article 31 TERMINATION This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year ... In such event, the Convention shall cease to have effect: a) (in State A): b) (in State B):	ARTICLE 31 TERMINATION This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year ... In such event, the Convention shall cease to have effect: a) (in State A): b) (in State B):

Anexo V – Convenções modelos de dupla tributação da OCDE de 2010, 2014 e 2017[69]

Modelo CDT OCDE/2010	**Modelo CDT OCDE/2014**	**Modelo CDT OCDE/2017***
Convention between (State A) and (State B) with respect to taxes on income and on capital	Convention between (State A) and (State B) with respect to taxes on income and on capital	Convenção entre (estado A) e (estado B) para a eliminação da dupla tributação no que diz respeito aos impostos sobre o rendimento e sobre o capital e a prevenção da evasão e elisão fiscais
PREAMBLE OF THE CONVENTION	PREAMBLE OF THE CONVENTION	(Estado A) e (estado B), Desejando aprofundar a sua relação econômica e reforçar a sua cooperação em matéria fiscal, A fim de celebrar uma Convenção para a eliminação da dupla tributação no que respeita impostos sobre o rendimento e sobre o capital sem criar oportunidades de não tributação ou redução da tributação através da evasão ou da elisão fiscal (inclusive por meio de acordos para o uso abusivo de convenções cujo objetivo seja estender indiretamente, a residentes de terceiros Estados, os benefícios previstos nesta Convenção), Concordaram da seguinte forma:
ARTICLE 1 PERSONS COVERED This Convention shall apply to persons who are residents of one or both of the Contracting States.	ARTICLE 1 PERSONS COVERED This Convention shall apply to persons who are residents of one or both of the Contracting States.	ARTIGO 1 Pessoas visadas 1. A presente Convenção é aplicável às pessoas residentes de um ou de ambos os Estados contratantes. 2. Para efeitos da presente Convenção, os rendimentos recebidos através de uma entidade ou um arranjo de empresas que é tratado como totalmente ou em parte fiscalmente transparente ao abrigo do direito tributário de um dos Estados Contratantes são considerados rendimentos de um residente de um Estado Contratante, mas apenas na medida em que o rendimento é tratado, para efeitos de tributação por esse Estado, como o rendimento de um residente desse Estado. 3. A presente Convenção não afeta a tributação, por um Estado Contratante, de seus residentes, exceto no que respeita aos

[69] A versão original do ano 2017 foi obtida no idioma inglês. A tradução deste trabalho para o português foi feita livremente pelo Autor.

		benefícios concedidos ao abrigo do parágrafo 3 do Artigo 7, parágrafo 2 do Artigo 9 e dos Artigos 19, 20, 23 [A] [B], 24, 25 e 28.
ARTICLE 2 TAXES COVERED 1.This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied. 2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation. 3. The existing taxes to which the Convention shall apply are in particular: a) (in State A): b) (in State B): 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.	ARTICLE 2 TAXES COVERED 1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied. 2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation. 3. The existing taxes to which the Convention shall apply are in particular: a) (in State A): b) (in State B): 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.	ARTIGO 2 Impostos visados 1. A presente Convenção se aplica a impostos sobre a renda e sobre o capital exigidos por um dos Estados Contratantes ou das suas subdivisões políticas ou autoridades locais, independentemente da forma como são cobrados. 2. São considerados impostos sobre a renda e sobre o capital todos os impostos incidentes sobre a totalidade da renda ou do capital, ou sobre os elementos da renda ou de capital, incluindo os impostos sobre os ganhos provenientes da alienação de bens móveis ou imóveis, os impostos sobre a totalidade dos salários ou ordenados pagos pelas empresas, bem como os impostos sobre a valorização do capital. 3. Os impostos atuais a que a Convenção se aplica são, em particular: a) (no Estado A): ..... b) (no Estado B): ..... 4. A Convenção aplica-se igualmente a quaisquer impostos idênticos ou substancialmente similares aos impostos que são exigidos após a data de assinatura da Convenção, além de, ou em lugar de, os impostos existentes. As autoridades competentes dos Estados Contratantes devem notificar quaisquer mudanças significativas que tenham sido feitas em suas leis de tributação.
ARTICLE 3 GENERAL DEFINITIONS 1. For the purposes of this Convention, unless the context otherwise requires: a) the term "person" includes an individual, a company and any other body of persons; b) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes; c) the term "enterprise" applies to the carrying on of any business; d) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State; 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 the ship or aircraft is operated solely between places in the other Contracting State; f) the term "competent authority" means: (i) (in State A): (ii) (in State B): g) 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; h) the term "business" includes the performance of professional services and of other activities of an independent	ARTICLE 3 GENERAL DEFINITIONS 1. For the purposes of this Convention, unless the context otherwise requires: a) the term "person" includes an individual, a company and any other body of persons; b) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes; c) the term "enterprise" applies to the carrying on of any business; d) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State; 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 the ship or aircraft is operated solely between places in the other Contracting State; f) the term "competent authority" means: (i) (in State A): (ii) (in State B): g) 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; h) the term "business" includes the performance of professional services and of other activities of an independent	ARTIGO 3 Definições gerais 1. Para efeitos da presente Convenção, a menos que o contexto o exija de outra forma: a) o termo "pessoa" inclui um indivíduo, uma empresa e qualquer outro órgão/conjunto de pessoas; b) o termo "sociedade" significa qualquer organismo corporativo ou qualquer entidade que é tratada como um órgão corporativo para fins tributários; c) o termo "empresa" aplica-se à realização de qualquer tipo de negócio; d) os termos "empresa de um Estado Contratante" e "empresa do outro Estado Contratante" significa, respetivamente, uma empresa detida por um residente de um Estado Contratante e uma empresa detida por um residente do outro Estado Contratante; e) o termo "tráfego internacional" significa qualquer transporte por navio ou aeronave, exceto quando o navio ou a aeronave é operado unicamente entre lugares em um Estado Contratante e a empresa que opera o navio ou a aeronave não é uma empresa desse Estado; f) o termo "autoridade competente" significa: (i) (no Estado A):..... (ii) (no Estado B):..... g) o termo "nacional", em relação a um Estado Contratante, significa: i) qualquer indivíduo que possua a nacionalidade ou a cidadania desse Estado Contratante; e (ii) qualquer pessoa, sociedade ou

character. 2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.	character. 2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.	associação que derive o seu status das leis vigentes nesse Estado Contratante; h) o termo "negócio" inclui o desempenho de serviços profissionais e de outras atividades de caráter independente. i) o termo "fundo de pensão reconhecido" de um Estado significa uma entidade ou um arranjo de entidades estabelecido nesse Estado que é tratado como uma pessoa distinta ao abrigo da leis tributárias desse Estado e: i) é estabelecida e operada exclusivamente ou quase exclusivamente para administrar ou fornecer benefícios de aposentadoria e auxiliares ou benefícios incidentais para os indivíduos e que é regulado como tal por esse Estado ou uma das suas subdivisões políticas ou autoridades locais; ou (ii) que é estabelecido e operado exclusivamente ou quase exclusivamente para investir fundos para benefício de entidades ou arranjo de entidades referidos na subdivisão (i). 2. No que respeita à aplicação da Convenção a qualquer momento por um Estado Contratante, qualquer termo não definido nela, a menos que o contexto exija o contrário ou as autoridades competentes concordem com um significado diferente nos termos das provisões do Artigo 25, têm o significado que tem no momento nos termos da lei desse Estado para os efeitos dos impostos a que a Convenção se aplica, qualquer significado no âmbito de aplicação da legislação tributária aplicável desse Estado prevalece sobre um significado dado ao termo por outras leis desse Estado.

ARTICLE 4 RESIDENT 1. For the purposes of this Convention, 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. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein. 2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows: a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests); b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode; c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national; d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement. 3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.	ARTICLE 4 RESIDENT 1. For the purposes of this Convention, 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. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein. 2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows: a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests); b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode; c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national; d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement. 3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.	ARTIGO 4 Residente 1. Para efeitos da presente Convenção, o termo "residente de um Estado Contratante" significa qualquer pessoa que, nos termos da legislação desse Estado, seja sujeita a imposto por razão de seu domicílio, residência, local de direção ou qualquer outro critério de mesma natureza, e também inclui esse Estado e qualquer subdivisão política ou autoridade local, bem como um fundo de pensões reconhecido desse Estado. Este termo, entretanto, não inclui qualquer pessoa que seja responsável por tributar nesse Estado em relação apenas ao rendimento de fontes desse Estado ou capital nele situados. 2. Sempre que, em virtude das provisões do parágrafo 1, um indivíduo seja residente de ambos os Estados Contratantes, o seu status deve ser determinado do seguinte modo: a) deve ser considerado residente apenas do Estado em que tem uma habitação permanente disponível para ele; se ele tem uma habitação permanente disponível para ele em ambos os Estados, considera-se residente apenas do Estado com o qual suas relações pessoais e econômicas estão mais próximas (centro de interesses vitais); b) se o Estado em que tem o seu centro de interesses vitais não puder ser determinado, ou se ele não tem uma habitação permanente disponível para ele em qualquer Estado, ele será considerado residente apenas do Estado em que tem domicílio habitual; c) se tiver domicílio habitual nos dois Estados ou em nenhum deles, será considerado residente apenas do Estado de que é nacional; d) se for nacional de ambos os Estados ou de nenhum deles, as autoridades competentes dos Estados Contratantes estabelecerão a questão de comum acordo. 3. Quando, em virtude das provisões do parágrafo 1, uma pessoa que não seja um indivíduo é residente de ambos os Estados Contratantes, as autoridades competentes dos Estados Contratantes esforçar-se-ão para estabelecer por mútuo acordo a que Estado essa pessoa é considerada residente para efeitos da Convenção, tendo em conta o seu lugar de gestão efetiva de negócios, o local onde foi criada ou se encontra constituída e quaisquer outros fatores relevantes. Na ausência de tal acordo, essa pessoa não terá direito a qualquer alívio ou isenção de impostos previstos na presente Convenção, exceto na medida e de tal forma que possa ser acordado pelas autoridades competentes dos Estados Contratantes.

ARTICLE 5 PERMANENT ESTABLISHMENT 1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on. 2. The term "permanent establishment" includes especially: a) a place of management; b) a branch; c) an office; d) a factory; e) a workshop, and f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources. 3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months. 4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include: a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise; b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery; c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise; d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise; e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character; f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character. 5. Notwithstanding the provisions of paragraphs 1 and 2, where a person — other than an agent of an independent status to whom paragraph 6 applies — is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph. 6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided	ARTICLE 5 PERMANENT ESTABLISHMENT 1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on. 2. The term "permanent establishment" includes especially: a) a place of management; b) a branch; c) an office; d) a factory; e) a workshop, and f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources. 3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months. 4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include: a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise; b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery; c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise; d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise; e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character; f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character. 5. Notwithstanding the provisions of paragraphs 1 and 2, where a person — other than an agent of an independent status to whom paragraph 6 applies — is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph. 6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided	ARTIGO 5 Estabelecimento permanente 1. Para efeitos da presente Convenção, o termo "estabelecimento permanente" significa um local fixo de negócios através do qual o negócio de uma empresa é total ou parcialmente realizado. 2. O termo "estabelecimento permanente" inclui especialmente: a) um local de direção; b) uma filial; c) um escritório; d) uma fábrica; e) uma oficina, e f) uma mina, um poço de petróleo ou gás, uma pedreira ou qualquer outro local de extração de recursos. 3. Um canteiro de obras ou projeto de construção ou de instalação constitui um estabelecimento permanente apenas se durar mais de doze meses. 4. Não obstante as disposições precedentes do presente Artigo, o termo "estabelecimento permanente" deve ser considerado para não incluir: a) a utilização de instalações unicamente para efeitos de armazenagem, exibição ou entrega de bens ou mercadoria pertencente à empresa; b) a manutenção de um estoque de bens ou mercadorias pertencentes à empresa exclusivamente para fins de armazenamento, exibição ou entrega; c) a manutenção de um estoque de bens ou mercadorias pertencentes à empresa unicamente para efeitos de transformação por outra empresa; d) a manutenção de um local fixo de negócios unicamente para efeitos de compra de bens ou mercadorias ou de recolha de informações, para a empresa; e) a manutenção de um local de trabalho fixo unicamente para efeitos de desenvolver, para a empresa, qualquer outra atividade de caráter preparatório e auxiliar; f) a manutenção de um local fixo de negócios unicamente para qualquer combinação de atividades referidas nas alíneas a) a e), desde que tal atividade ou, no caso da alínea f), a atividade global do local fixo de negócios, é de caráter preparatório ou auxiliar. 4.1 O parágrafo 4 não é aplicável a um local fixo de atividade que seja utilizado ou mantido por uma empresa se a mesma empresa ou uma empresa associada exerce atividades comerciais no mesmo local ou noutro local do mesmo Estado Contratante e a) esse lugar ou outro lugar constitua um estabelecimento permanente para a empresa ou a empresa associada ao abrigo das provisões no presente Artigo, ou b) a atividade global resultante da combinação das atividades desenvolvidas pelas duas empresas no mesmo lugar, ou pela mesma empresa ou empresas associadas nos dois lugares, não é de caráter preparatório ou auxiliar, desde que as atividades empresariais desenvolvidas pelas duas empresas no mesmo lugar, ou pela mesma empresa ou empresa associada nos dois lugares, constituem funções complementares que fazem parte de uma operação empresarial coesa.

that such persons are acting in the ordinary course of their business. 7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.	that such persons are acting in the ordinary course of their business. 7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.	5. Não obstante as provisões dos parágrafos 1 e 2, mas reservado as provisões do parágrafo 6, caso uma pessoa atue num Estado Contratante em nome de uma empresa e, ao fazê-lo, habitualmente conclui contratos, ou habitualmente desempenha o principal papel que conduz à celebração de contratos que são regularmente celebrados sem modificação pela empresa, e estes contratos são a) em nome da empresa, ou b) para a transferência da titularidade ou para a concessão do direito de utilização, bem de propriedade da empresa ou que a empresa tem o direito de usar, ou c) para a prestação de serviços por essa empresa, que a empresa deve ser considerada como tendo um estabelecimento permanente nesse Estado em respeito a qualquer atividade que essa pessoa empreenda para a empresa, a menos que as atividades desta pessoa são limitadas às mencionadas no parágrafo 4, se exercido através de um local fixo de negócios (que não seja um local fixo de negócios que o parágrafo 4.1 se aplicaria), não tornaria este lugar fixo de negócios um estabelecimento permanente nos termos das provisões deste parágrafo. 6. O parágrafo 5 não é aplicável quando a pessoa que atua num Estado Contratante em nome de uma empresa do outro Estado Contratante exerce as suas atividades no primeiro Estado como um agente independente e atua para a empresa no curso ordinário desse negócio. Quando, entretanto, uma pessoa atua exclusivamente ou quase exclusivamente em nome de uma ou mais empresas a que está associada, essa pessoa não deve ser considerada um agente independente na acepção do presente parágrafo em relação a qualquer empresa. 7. O fato de uma sociedade residente de um Estado Contratante controlar ou ser controlada por uma sociedade residente do outro Estado Contratante, ou que exerce a sua atividade nesse outro Estado (quer através de um estabelecimento permanente ou o contrário), não constitui, por si só, para nenhuma das empresas um estabelecimento permanente da outra. 8. Para efeitos do presente artigo, uma pessoa ou empresa associada a uma empresa se, com base em todos os fatos e circunstâncias relevantes, um tiver controle dos outros ou ambos estão sob o controle das mesmas pessoas ou empresas. Em qualquer caso, um pessoa ou empresa deve ser considerada associada a uma empresa se houver, direta ou indiretamente, mais de 50 por cento de interesse benéfico na outra (ou, no caso de uma empresa, mais de 50 por cento da votação agregada e valor das ações da empresa ou de participação de interesse benéfico do patrimônio líquido da empresa) ou se outra pessoa ou empresa possui, direta ou indiretamente, mais de 50 por cento de interesse benéfico (ou, no caso de uma empresa, mais de 50 por cento do agregado e o valor das ações da empresa ou do interesse benéfico do patrimônio líquido em empresa) na pessoa e na empresa ou nas duas empresas.

ARTICLE 6 INCOME FROM IMMOVABLE PROPERTY 1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State. 2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property. 3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property. 4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.	ARTICLE 6 INCOME FROM IMMOVABLE PROPERTY 1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State. 2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property. 3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property. 4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.	ARTIGO 6 Rendimentos de bens imóveis 1. Rendimentos recebidos um residente de um Estado Contratante de bens imóveis (incluindo rendimentos da agricultura ou da silvicultura) situados no outro Estado Contratante devem ser tributados nesse outro Estado. 2. O termo "bens imóveis" tem o significado que tem no âmbito da legislação do Estado Contratante em que o imóvel em questão está situado. O termo deve, em qualquer caso, incluir bens acessórios aos bens imóveis, pecuária e equipamentos utilizados na agricultura e na silvicultura, direitos aos quais as disposições gerais de direito respectivamente a propriedade imóvel se aplique, usufruto de bens imóveis e direitos de pagamentos fixos ou variáveis como contrapartida do trabalho, ou do direito ao trabalho, depósitos minerais, fontes e outros recursos naturais; navios e aeronaves não devem ser considerados imóveis. 3. As provisões do parágrafo 1 é aplicável aos rendimentos recebidos da utilização direta, utilização em qualquer outra forma de bens imóveis. 4. As disposições dos parágrafos 1 e 3 aplica-se igualmente aos rendimentos de bens imóveis de uma empresa.
ARTICLE 7 BUSINESS PROFITS 1. 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 that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 may be taxed in that other State. 2. For the purposes of this Article and Article [23 A] [23B], the profits that are attributable in each Contracting State to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise. 3. Where, in accordance with paragraph 2, a Contracting State adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting States and taxes accordingly profits of the enterprise that have been charged to tax in the other State, the other State shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment to the amount of the tax charged on those profits. In determining such adjustment, the competent authorities of the Contracting States shall if necessary consult each other. 4. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the	ARTICLE 7 BUSINESS PROFITS 1. 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 that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 may be taxed in that other State. 2. For the purposes of this Article and Article [23 A] [23 B], the profits that are attributable in each Contracting State to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise. 3. Where, in accordance with paragraph 2, a Contracting State adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting States and taxes accordingly profits of the enterprise that have been charged to tax in the other State, the other State shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment to the amount of the tax charged on those profits. In determining such adjustment, the competent authorities of the Contracting States shall if necessary consult each other. 4. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the	ARTIGO 7 Lucros das empresas 1. Os lucros de uma empresa de um Estado Contratante devem ser tributados nesse Estado a menos que a empresa exerça negócios no outro Estado Contratante através de estabelecimento permanente nele situado. Se a empresa desenvolve negócios como referidos, os lucros imputáveis ao estabelecimento permanente em conformidade com a provisão do parágrafo 2 podem ser tributados nesse outro Estado. 2. Para efeitos do presente Artigo e do Artigo [23-A] [23 B], os lucros que são imputáveis em cada Estado Contratante ao estabelecimento permanente referido no parágrafo 1 são os lucros que se pode esperar fazer, nomeadamente nas suas relações com outras partes da empresa, se fosse uma empresa separada e independente engajada em atividades iguais ou similares nas mesmas condições ou similares, tendo em conta as funções executadas, os ativos utilizados e os riscos assumidos pela empresa através do estabelecimento permanente e através das outras partes da empresa. 3. Se, em conformidade com o parágrafo 2, um Estado Contratante ajustar os lucros que são atribuíveis a um estabelecimento permanente de uma empresa de um dos Estados Contratantes e impostos de acordo com os lucros da empresa que foram imputáveis ao imposto no outro Estado, o outro Estado deve, na medida do necessário para eliminar a dupla tributação sobre estes lucros, fazer um ajustamento adequado ao montante do imposto cobrado sobre esses lucros. Ao determinar tal ajustamento, as autoridades competentes dos Estados Contratantes devem, se necessário, consultar-se mutuamente. 4. Se os lucros incluírem itens de

provisions of those Articles shall not be affected by the provisions of this Article.	provisions of those Articles shall not be affected by the provisions of this Article.	rendimentos que são tratados separadamente noutros Artigos da presente Convenção, as disposições dos referidos artigos não são afetadas pelo disposto no presente Artigo.
ARTICLE 8 SHIPPING, INLAND WATERWAYS TRANSPORT AND AIR TRANSPORT 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 boat, then it shall be deemed to be situated in the Contracting State in which the home harbor of the ship or boat is situated, or, if there is no such home harbor, 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 SHIPPING, INLAND WATERWAYS TRANSPORT AND AIR TRANSPORT 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 boat, then it shall be deemed to be situated in the Contracting State in which the home harbor of the ship or boat is situated, or, if there is no such home harbor, 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.	ARTIGO 8 Transporte internacional de navio e aeronave 1. Os lucros de uma empresa de um Estado Contratante da exploração de navios ou aeronaves no tráfego internacional só podem ser tributados nesse Estado. 2. As disposições do parágrafo 1 é igualmente aplicável aos lucros da participação de uma associação de empresa, em negócios conjunto ou uma agência operacional internacional.
ARTICLE 9 ASSOCIATED ENTERPRISES 1. Where a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly. 2. Where a Contracting State includes in the profits of an enterprise of that State — and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities	ARTICLE 9 ASSOCIATED ENTERPRISES 1. Where a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly. 2. Where a Contracting State includes in the profits of an enterprise of that State — and taxes accordingly—profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities	ARTIGO 9 Empresas associadas 1. Onde A) uma empresa de um Estado Contratante participa direta ou indiretamente na gestão, controle ou capital de uma empresa do outro Estado Contratante, ou b) as mesmas pessoas participam direta ou indiretamente na gestão, controle e ou capital de uma empresa de um Estado Contratante e uma empresa do outro Estado Contratante, e em ambos os casos as condições são feitas ou impostas entre as duas empresas em suas relações comerciais ou financeiras que diferem daquelas que seriam feitas entre empresas independentes, então todos os lucros que, mas para aquelas condições, acumularam-se a uma das empresas, mas, devido a essas condições, não se acumularam, podem ser incluídas nos lucros dessa empresa e tributados adequadamente. 2. Sempre que um Estado Contratante inclua nos lucros de uma empresa desse Estado — e tributados em conformidade — lucros em que uma empresa do outro Estado Contratante foi cobrado de imposto em outro Estado e os lucros assim incluídos são os lucros que teria acumulado para a empresa do primeiro Estado mencionado se as condições entre as duas empresas foram aqueles que teriam sido feitas entre empresas independentes, então que outro Estado deve fazer um adequado ajustamento ao montante do imposto cobrado nele sobre esses lucros. Ao determinar tal ajustamento deve ser tido em conta com as outras provisões da presente Convenção e as autoridades competentes

of the Contracting States shall if necessary consult each other.	of the Contracting States shall if necessary consult each other.	dos Estados Contratantes devem, se necessário, consultar-se mutuamente.
ARTICLE 10 DIVIDENDS 1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State. 2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed: a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends; b) 15 per cent of the gross amount of the dividends in all other cases. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid. 3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. 4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply. 5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.	ARTICLE 10 DIVIDENDS 1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State. 2. However, dividends paid by a company which is a resident of a Contracting State may also be taxed in that State according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed: a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends; b) 15 per cent of the gross amount of the dividends in all other cases. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid. 3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. 4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply. 5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.	ARTIGO 10 Dividendos 1. Os dividendos pagos por uma sociedade residente de um Estado Contratante a um residente do outro Estado Contratante deve ser tributado nesse outro Estado. 2. Todavia, os dividendos pagos por uma sociedade residente de um Estado Contratante também pode ser tributado nesse Estado de acordo com as leis desse Estado, mas se o beneficiário efetivo dos dividendos é um residente do outro Estado Contratante, o imposto assim cobrado não deve exceder: a) 5% do montante bruto dos dividendos se o beneficiário efetivo for uma empresa que detém diretamente pelo menos 25% do capital da empresa que está pagando os dividendos por um período de 365 dias que inclui o dia do pagamento do dividendo (para efeitos de cálculo desse período, não devem ser tomadas as alterações de propriedade que resultaria diretamente de uma reorganização societária, como uma fusão ou cisão, da empresa que detém as ações ou que paga o dividendo); b) 15% do montante bruto dos dividendos em todos os outros casos. As autoridades competentes dos Estados Contratantes estabelecerão, de comum acordo, o modo de aplicação destas limitações. O presente parágrafo não afeta a tributação da sociedade relativamente aos lucros a partir dos quais os dividendos são pagos. 3. O termo "dividendos", tal como utilizado no presente Artigo, significa rendimentos de ações, do proveito de ações ou proveito de direitos, ações de mineração, ações dos fundadores ou outros direitos, não sendo reivindicações de dívidas, participando de lucros, bem como rendimentos de outros direitos das sociedades que sejam sujeitos ao mesmo tratamento fiscal que os rendimentos ações pelas leis do Estado de que a empresa que faz a distribuição é um residente. 4. As provisões dos parágrafos 1 e 2 não são aplicáveis se o beneficiário efetivo dos dividendos, sendo residente de um Estado Contratante, exerce as suas atividades no outro Estado Contratante de que a sociedade que paga os dividendos é residente através de um estabelecimento permanente situado nele e da exploração em relação ao qual os dividendos são pagos está efetivamente ligado a esse estabelecimento permanente. Em tais casos as provisões do Artigo 7 são aplicáveis. 5. Se uma sociedade residente de um Estado Contratante receber lucros ou rendimentos do outro Estado Contratante, que o outro Estado pode não impor qualquer imposto sobre os dividendos pagos pela empresa, exceto na medida em que tais dividendos sejam pagos a um residente desse outro Estado ou na medida em que a exploração em relação à qual os dividendos são pagos está efetivamente ligadas a um estabelecimento permanente situado nesse outro Estado, nem sujeitar os lucros não distribuídos da empresa a um

		imposto sobre os lucros não distribuídos, mesmo que os dividendos pagos ou os lucros não distribuídos consistam total ou parcialmente dos lucros ou rendimentos resultantes de outro Estado.
ARTICLE 11 INTEREST 1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. 2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. 3. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article. 4. 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 establishment. In such case the provisions of Article 7 shall apply. 5. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated. 6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.	ARTICLE 11 INTEREST 1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. 2. However, interest arising in a Contracting State may also be taxed in that State according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. 3. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article. 4. 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 establishment. In such case the provisions of Article 7 shall apply. 5. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated. 6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.	ARTIGO 11 Juros 1. Os juros provenientes de um Estado Contratante e pagos a um residente do outro Estado Contratante deve ser tributado nesse outro Estado. 2. Todavia, os juros resultantes de um Estado Contratante podem também ser tributados nesse Estado de acordo com as leis desse Estado, mas se o beneficiário efetivo dos juros for um residente do outro Estado Contratante, o imposto assim cobrado não deve exceder 10% do montante bruto dos juros. As autoridades competentes dos Estados Contratantes devem estabelecer, de comum acordo, o modo de aplicação desta limitação. 3. O termo "juros" utilizado no presente Artigo significa rendimentos de créditos de todos os tipos, quer ou não garantidos por hipoteca e se ou não tendo o direito de participação nos lucros do devedor e, em particular, os rendimentos dos títulos de Governo e rendimentos de títulos ou debêntures, incluindo prêmios vinculados a tais títulos, obrigações ou debêntures. Taxas de penalidade para pagamento tardio não devem ser considerados como juros para efeitos do presente Artigo. 4. As provisões dos parágrafos 1 e 2 não é aplicável se o beneficiário efetivo dos juros, sendo residente de um Estado Contratante, exerce as suas atividades no outro Estado Contratante em que os juros surgem através de um estabelecimento permanente nele situado e a reivindicação da dívida em relação à qual o juro é pago é efetivamente ligada a esse estabelecimento permanente. Nesse caso, as provisões do Artigo 7 são aplicáveis. 5. Considera-se que os juros surgem num Estado Contratante quando o pagador é residente desse Estado. Onde, entretanto, a pessoa que paga o juros, se ele é um residente de um Estado Contratante ou não, tem num Estado Contratante um estabelecimento permanente em relação ao qual o endividamento em que os juros é pago foi incorrido, e esse juros é suportado por esse estabelecimento permanente, considerar-se-á que tal juro é originado no Estado em que o estabelecimento permanente está situado. 6. Sempre que, devido a uma relação especial entre o pagador e o beneficiário efetivo ou entre ambos e outra pessoa, o montante do juros, tendo em conta a reivindicação da dívida para a qual é paga, excede o montante que foram acordados pelo pagador e pelo beneficiário efetivo na ausência de tal relação, as provisões do presente Artigo aplicam-se apenas ao último valor mencionado. Nesse caso, a parte excedente dos pagamentos permanecerá tributável de acordo com legislação de cada Estado Contratante, observando-se as outras disposições da presente Convenção.

ARTICLE 12 ROYALTIES 1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State. 2. 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, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience. 3. The provisions of paragraph 1 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 and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply. 4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.	ARTICLE 12 ROYALTIES 1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State. 2. 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, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience. 3. The provisions of paragraph 1 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 and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply. 4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.	ARTIGO 12 Royalties 1. Royalties provenientes de um Estado Contratante e beneficiário efetivo residente de outro Estado Contratante só é tributável nesse outro Estado. 2. O termo "royalties" utilizado no presente Artigo significa pagamentos de qualquer tipo recebidos como uma consideração para o uso de, ou o direito de usar, qualquer direito literário, artístico ou trabalho científico, incluindo filmes cinematográficos, qualquer patente, marca, design ou modelo, plano, fórmula secreta ou processo, ou para informações concernentes a experiências industrial, comercial ou científica. 3. As provisões do parágrafo 1 não são aplicáveis se o beneficiário efetivo dos royalties, sendo residente de um Estado Contratante, exerce a sua atividade no outro Estado Contratante em que os royalties surgem através de um estabelecimento permanente nele situado e o direito ou propriedade relativamente aos quais os royalties são pagos são efetivamente ligados a esse estabelecimento permanente. Nesse caso, as provisões do Artigo 7 são aplicáveis. 4. Sempre que, devido a uma relação especial entre o pagador e o beneficiário efetivo ou entre ambos e outra pessoa, o montante dos royalties, tendo em conta a utilização, o direito ou a informação para a qual são pagos, excede o montante que teria sido acordado pelo pagador e pelo beneficiário efetivo diante da ausência dessa relação, as provisões do presente Artigo aplicam-se apenas à último valor mencionado. Nesse caso, a parte excedente dos pagamentos deve se manter tributáveis de acordo com as leis de cada Estado Contratante, tendo em conta as outras disposições da presente Convenção.

ARTICLE 13 CAPITAL GAINS 1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State. 2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State. 3. Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. 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 property situated in the other Contracting State may be taxed in that other State. 5. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Contracting State of which the alienator is a resident.	ARTICLE 13 CAPITAL GAINS 1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State. 2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State. 3. Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. 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 property situated in the other Contracting State may be taxed in that other State. 5. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Contracting State of which the alienator is a resident.	ARTIGO 13 Ganhos de capital 1. Os ganhos recebidos por um residente de um Estado Contratante da alienação de bens imóveis referidos no Artigo 6 e situados no outro Estado Contratante devem ser tributados nesse outro Estado. 2. Ganhos da alienação de bens móveis que fazem parte do negócio de um estabelecimento estável que uma empresa de um Estado Contratante tem no outro Estado Contratante, incluindo em tais ganhos os resultantes da alienação desse estabelecimento estável (sozinho ou com toda a empresa), podem ser tributados no outro Estado. 3. Ganhos que uma empresa de um Estado Contratante que opere navios ou aeronaves em tráfego internacional derivado da alienação de tais navios ou aeronaves, ou de bens móveis pertencentes a operação desses navios ou aeronaves, só podem ser tributados nesse estado. 4. Ganhos recebidos por um residente de um Estado Contratante da alienação de ações ou direitos comparáveis, tais como os interesses numa sociedade ou trust, podem ser tributados no outro Estado Contratante se, em qualquer momento durante os 365 dias anteriores à alienação, essas ações ou direitos comparáveis derivaram mais de 50% do seu valor direta ou indiretamente de bens imóveis, tal como definido no Artigo 6, situado naquele outro Estado. 5. Os ganhos da alienação de qualquer propriedade, com exceção das referidas nos parágrafos 1, 2, 3 e 4, só podem ser tributados no Estado Contratante de que o alienante é um residente.
[Article 14 - INDEPENDENT PERSONAL SERVICES] [Deleted]	[Article 14 - INDEPENDENT PERSONAL SERVICES] [Deleted]	[ARTIGO 14 - SERVIÇOS PESSOAIS INDEPENDENTES] [EXCLUÍDO]

ARTICLE 15 INCOME FROM EMPLOYMENT 1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State. 2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if: a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and c) the remuneration is not borne by a permanent establishment which the employer has in the other State. 3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.	ARTICLE 15 INCOME FROM EMPLOYMENT 1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State. 2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if: a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and c) the remuneration is not borne by a permanent establishment which the employer has in the other State. 3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.	ARTIGO 15 Rendimentos do emprego 1. Reservada às provisões dos Artigos 16, 18 e 19, os salários, ordenados e outras remunerações similares recebidas por um residente de um Estado Contratante em relação a emprego só é tributável nesse estado, a menos que o emprego seja exercido no outro Estado Contratante. Se o emprego for assim exercido, a remuneração daí resultante pode ser tributada nesse outro Estado. 2. Não obstante as provisões do parágrafo 1, a remuneração percebida por um residente de um Estado Contratante no que diz respeito a um emprego exercido no outro Estado Contratante só é tributável no primeiro Estado se: a) o beneficiário está presente no outro Estado por um período ou períodos que não excedam no agregado 183 dias em qualquer período de doze meses, começando ou terminando, em ano fiscal em causa, e b) a remuneração é paga por ou em nome de um empregador que não seja residente do outro Estado, e c) a remuneração não é suportada por um estabelecimento permanente que o empregador tem no outro Estado. 3. Não obstante as disposições precedentes do presente Artigo, a remuneração recebida por um residente de um Estado Contratante em relação a um emprego, enquanto membro do complemento regular de um navio ou aeronave, que é exercida a bordo de um navio ou aeronave operado em tráfego internacional, que não a bordo de um navio ou aeronave operado unicamente no outro Estado Contratante, só podem ser tributados no primeiro Estado.
ARTICLE 16 DIRECTORS' FEES Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.	ARTICLE 16 DIRECTORS' FEES Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.	ARTIGO 16 Remuneração de Diretores Remuneração de diretores e outros pagamentos similares recebidos por um residente de um Estado Contratante na sua qualidade de membro do Conselho de Administração de uma sociedade residente outro Estado Contratante podem ser tributados nesse outro Estado.
ARTICLE 17 ARTISTES AND SPORTSMEN 1. Notwithstanding the provisions of Articles 7 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State. 2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.	ARTICLE 17 ENTERTAINERS AND SPORTSPERSONS 1. Notwithstanding the provisions of Article 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from that resident's personal activities as such exercised in the other Contracting State, may be taxed in that other State. 2. Where income in respect of personal activities exercised by an entertainer or a sportsperson acting as such accrues not to the entertainer or sportsperson but to another person, that income may, notwithstanding the provisions of Article 15, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.	ARTIGO 17 Artistas e Desportistas 1. Não obstante o disposto no Artigo 15, os rendimentos recebidos por um residente de um Estado Contratante na qualidade de profissional de espetáculos, como um artista de teatro, cinema, rádio ou televisão, ou um músico, ou como um desportista, a partir de suas atividades pessoais exercidas nessa qualidade no outro Estado Contratante, podem ser tributados nesse outro Estado. 2. Se os rendimentos relativos as atividades pessoais exercidas por um profissional de espetáculos ou desportista agindo como tal resulta não para o profissional ou desportista, mas para outra pessoa, esse rendimento pode, não obstante o disposto no Artigo 15, ser tributado no Estado Contratante em que as atividades do profissional ou desportista são exercidas.

ARTICLE 18 PENSIONS Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.	ARTICLE 18 PENSIONS Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.	ARTIGO 18 Pensões Sem prejuízo do disposto no parágrafo 2 do artigo 19, as pensões e outras remunerações similares pagas a um residente de um Estado Contratante em consequência de um emprego anterior só é tributável nesse Estado.
ARTICLE 19 GOVERNMENT SERVICE 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. b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who: (i) is a national of that State; or (ii) did not become a resident of that State solely for the purpose of rendering the services. 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 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. b) However, such pensions 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 State. 3. The provisions of Articles 15, 16, 17, and 18 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.	ARTICLE 19 GOVERNMENT SERVICE 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. b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who: (i) is a national of that State; or (ii) did not become a resident of that State solely for the purpose of rendering the services. 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 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. b) However, such pensions 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 State. 3. The provisions of Articles 15, 16, 17, and 18 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.	ARTIGO 19 Funções públicas 1. a) Salários, ordenados e outras remunerações similares pagas por um Estado Contratante ou uma subdivisão política ou uma autoridade local para um indivíduo em consequência a serviços prestados a esse Estado ou subdivisão ou autoridade só são tributáveis nesse Estado. b) Todavia, tais salários, ordenados e outras remunerações similares são tributáveis apenas no outro Estado Contratante se os serviços forem prestados nesse Estado e o indivíduo é um residente desse Estado que: i) seja nacional desse Estado; ou ii) não se tornar residente desse Estado unicamente para efeitos de prestação dos serviços. 2. a) Não obstante o disposto no parágrafo 1, as pensões e outras remunerações similares pagas por, ou por fundos criados por, um Estado Contratante ou uma subdivisão política ou uma autoridade local para um indivíduo em consequência de serviços prestados a esse Estado ou subdivisão ou autoridade só são tributáveis nesse Estado. b) Todavia, essas pensões e outras remunerações similares são tributáveis somente no outro Estado Contratante se o indivíduo for residente ou nacional desse Estado. 3. O disposto nos Artigos 15, 16, 17 e 18 aplica-se aos salários, ordenados, pensões e outras remunerações similares em relação aos serviços prestados em conexão com um negócio exercido por um Estado Contratante ou por uma subdivisão política ou uma autoridade local da mesma.
ARTICLE 20 STUDENTS 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 that such payments arise from sources outside that State.	ARTICLE 20 STUDENTS 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 that such payments arise from sources outside that State.	ARTIGO 20 Estudantes Pagamentos que um estudante ou aprendiz de empresa que é, ou foi, em período imediatamente anterior de permanência no Estado Contratante, residente do outro Estado Contratante e que a permanência no primeiro Estado mencionado seja unicamente para efeitos da sua educação ou formação, recebe para efeitos da sua manutenção, educação ou formação, não são tributadas nesse Estado, desde que esses pagamentos resultem de fontes fora desse Estado.

ARTICLE 21 OTHER INCOME 1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State. 2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.	ARTICLE 21 OTHER INCOME 1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State. 2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.	ARTIGO 21 Outros rendimentos 1. Itens de rendimentos de um residente de um Estado Contratante, de onde quer que provenham, não tratados nos artigos precedentes da presente Convenção devem ser tributados somente nesse Estado. 2. O disposto no parágrafo 1 não é aplicável aos rendimentos, com exceção dos rendimentos de bens imóveis tal como definidos no parágrafo 2 do Artigo 6, se o beneficiário desse rendimento, sendo residente de um Estado Contratante, exerce a sua atividade no outro Estado Contratante através de um estabelecimento permanente nele situado e o direito ou propriedade em relação ao qual o rendimento é pago está efetivamente ligado a tal estabelecimento permanente. Nesse caso, são aplicáveis as disposições do Artigo 7.
ARTICLE 22 CAPITAL 1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State. 2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State may be taxed in that other State. 3. Capital represented by ships and aircraft operated in international traffic and by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. 4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.	ARTICLE 22 CAPITAL 1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State. 2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State may be taxed in that other State. 3. Capital represented by ships and aircraft operated in international traffic and by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. 4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.	ARTIGO 22 Capital 1. Capital representado por bens imóveis a que se refere o Artigo 6, pertencente a um residente de um Estado Contratante e situado no outro Estado Contratante, pode ser tributado nesse outro Estado. 2. Capital representado por bens móveis que fazem parte da propriedade de um estabelecimento permanente que uma empresa de um Estado Contratante tenha no outro Estado Contratante pode ser tributado nesse outro Estado. 3. Capital de uma empresa de um Estado Contratante que opere navios ou aeronaves em tráfego internacional representado por tais navios ou aeronaves, e por bens móveis relativas ao funcionamento desses navios ou aeronaves, só podem ser tributados nesse Estado. 4. Todos os outros elementos de capital de um residente de um Estado Contratante devem ser tributados apenas nesse Estado.
ARTICLE 23 A EXEMPTION METHOD 1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall, subject to the provisions of paragraphs 2 and 3, exempt such income or capital from tax. 2. Where a resident of a Contracting State derives items of income which, in accordance with the provisions of Articles 10 and 11, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in that other State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from that other State. 3. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in	ARTICLE 23 A EXEMPTION METHOD 1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall, subject to the provisions of paragraphs 2 and 3, exempt such income or capital from tax. 2. Where a resident of a Contracting State derives items of income which, in accordance with the provisions of Articles 10 and 11, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in that other State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from that other State. 3. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in	ARTIGO 23-A Método da Isenção 1. Se um residente de um Estado Contratante receber rendimentos ou possuir capital que podem ser tributados no outro Estado Contratante, em conformidade com as disposições desta Convenção (exceto na medida em que estas disposições permitam a tributação por aquele Estado somente porque os rendimentos são também rendimentos recebidos por um residente desse Estado ou porque o capital é também capital de propriedade de um residente desse Estado), o primeiro Estado mencionado, observando o disposto nos parágrafos 2 e 3, isenta tais rendimentos ou capital de tributação. 2. Se um residente de um Estado Contratante receber itens de rendimentos que podem ser tributados no outro Estado Contratante, em conformidade com o disposto nos Artigos 10 e 11 (exceto na medida em que estas disposições permitam a tributação por esse outro Estado somente porque os rendimentos são também rendimentos recebidos por um residente desse Estado), o primeiro Estado mencionado deve autorizar como dedução

calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital. 4. The provisions of paragraph 1 shall not apply to income derived or capital owned by a resident of a Contracting State where the other Contracting State applies the provisions of this Convention to exempt such income or capital from tax or applies the provisions of paragraph 2 of Article 10 or 11 to such income. ARTICLE 23 B CREDIT METHOD 1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow: a) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other State; b) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other State. Such deduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in that other State. 2. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.	calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital. 4. The provisions of paragraph 1 shall not apply to income derived or capital owned by a resident of a Contracting State where the other Contracting State applies the provisions of this Convention to exempt such income or capital from tax or applies the provisions of paragraph 2 of Article 10 or 11 to such income. ARTICLE 23 B CREDIT METHOD 1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow: a) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other State; b) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other State. Such deduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in that other State. 2. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.	do imposto sobre os rendimentos daquele residente um montante igual ao imposto pago nesse outro Estado. Todavia, essa dedução não deve exceder essa parte do imposto, como calculado antes da dedução que é dada, que é imputável a esses elementos de rendimentos recebidos desse outro Estado. 3. Se, de acordo com qualquer disposição da Convenção, os rendimentos recebidos ou capital próprio de um residente de um Estado Contratante está isento de imposto nesse Estado, este Estado pode, no entanto, no cálculo do montante do imposto sobre os rendimentos remanescentes ou capitais de tal residente, ter em conta o rendimento ou o capital isentos. 4. O disposto no parágrafo 1 não é aplicável aos rendimentos recebidos ou capitais de propriedade de um residente de um Estado Contratante em que o outro Estado Contratante aplique as disposições da presente Convenção para isentar esses rendimentos ou capitais de tributação ou aplique as disposições do parágrafo 2 do Artigo 10 ou 11 para esse rendimento. ARTIGO 23-B Método de crédito 1. Se um residente de um Estado Contratante receber rendimentos ou possuir capital que podem ser tributados no outro Estado Contratante, em conformidade com as disposições desta Convenção (exceto na medida em que estas disposições permitam a tributação por aquele Estado somente porque os rendimentos são também rendimentos recebidos por um residente desse Estado ou porque o capital é também capital de propriedade de um residente desse Estado), o primeiro Estado mencionado deve autorizar: a) como dedução do imposto sobre o rendimento desse residente, um montante igual ao imposto de renda pago nesse outro Estado; b) como dedução do imposto sobre o capital desse residente, um montante igual ao imposto sobre o capital pago nesse outro Estado. Essa dedução, em qualquer dos casos não deve, entretanto, exceder a parte do imposto sobre o rendimento ou capital, tal como calculado antes da dedução dada, que é atribuível, como pode ser, para o rendimento ou o capital que pode ser tributado nesse outro Estado. 2. Se, de acordo com qualquer disposição da Convenção, os rendimentos recebidos ou capital de propriedade de um residente de um Estado Contratante está isento de imposto nesse Estado, esse Estado pode, no entanto, no cálculo do montante do imposto sobre os rendimentos remanescentes ou capitais de tal residente, ter em conta o rendimento ou o capital isentos.

ARTICLE 24 NON-DISCRIMINATION 1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States. 2. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected. 3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents. 4. Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, or paragraph 4 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State. 5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected. 6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.	ARTICLE 24 NON-DISCRIMINATION 1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States. 2. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected. 3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents. 4. Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, or paragraph 4 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State. 5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected. 6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.	ARTIGO 24 Não-discriminação 1. Os nacionais de um Estado Contratante não estarão sujeitos no outro Estado Contratante a qualquer tributação ou exigência com ela conexa, diversa ou mais onerosa do que a tributação e as exigências com ela conexas às quais os nacionais desse outro Estado, nas mesmas circunstâncias, estiverem ou puderem estar sujeitos, em particular com relação à residência. A presente disposição, não obstante o disposto no Artigo 1, também se aplicam a pessoas que não sejam residentes de um ou de ambos os Estados Contratantes. 2. Os apátridas residentes de um Estado Contratante não estarão sujeitos em qualquer Estado Contratante a qualquer tributação ou exigências com ela conexa, diversa ou mais onerosa do que a tributação e as exigências com ela conexas às quais os nacionais desse outro Estado estão sujeitas, nas mesmas circunstâncias, em particular com respeito à residência. 3. A tributação de um estabelecimento permanente que uma empresa de um Estado Contratante tenha no outro Estado Contratante não deve ser menos favorável naquele Estado do que a tributação de empresas daquele Estado que tenho negócios com a mesma atividade. Esta disposição não deve ser interpretada como obrigando um Estado Contratante a conceder aos residentes do outro Estado Contratante quaisquer vantagens pessoais, benefícios e reduções para efeitos de tributação em função do status civil ou das responsabilidades familiares que concede aos seus próprios residentes. 4. Salvo se as disposições do parágrafo 1 do artigo 9, parágrafo 6 do artigo 11, ou no parágrafo 4 do artigo 12, aplicam-se, juros, royalties e outros desembolsos pagos por uma empresa de um Estado Contratante a um residente do outro Estado Contratante deve, para efeitos de determinação dos lucros tributáveis dessa empresa, ser deduzido nas mesmas condições, como se tivessem sido pagos a um residente do primeiro Estado mencionado. Da mesma forma, quaisquer dívidas de uma empresa de um Estado Contratante a um residente do outro Estado Contratante deve, para efeitos de determinação do capital tributável da empresa, ser dedutível nas mesmas condições que se tivessem sido contratados para um residente do primeiro Estado mencionado. 5. As empresas de um Estado Contratante, cujo capital seja total ou parcialmente detida ou controlada, direta ou indiretamente, por um ou mais residentes do outro Estado Contratante, não deve ser submetido no primeiro Estado mencionado a qualquer tributação ou de um requisito a ela conexo, que é diverso ou mais oneroso do que o tributação e os requisitos a ela conexos que outras empresas similares do primeiro Estado mencionado são ou podem ser submetidos. 6. Não obstante o disposto no artigo 2, as disposições do presente Artigo aplicam-se aos impostos de todos os tipos e descrições.

ARTICLE 25 MUTUAL AGREEMENT PROCEDURE 1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention. 2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States. 3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention. 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. 5. Where, a) under paragraph 1, a person has presented a case to the competent authority of a Contracting State on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of this Convention, and b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 within two years from the presentation of the case to the competent authority of the other Contracting State, any unresolved issues arising from the case shall be submitted to arbitration if the person so requests. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either State. Unless a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision, that decision shall be binding on both Contracting States and shall be implemented notwithstanding any time limits in the domestic laws of these States. The competent authorities of the Contracting States shall by mutual	ARTICLE 25 MUTUAL AGREEMENT PROCEDURE 1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention. 2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States. 3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention. 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. 5. Where, a) under paragraph 1, a person has presented a case to the competent authority of a Contracting State on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of this Convention, and b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 within two years from the presentation of the case to the competent authority of the other Contracting State, any unresolved issues arising from the case shall be submitted to arbitration if the person so requests. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either State. Unless a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision, that decision shall be binding on both Contracting States and shall be implemented notwithstanding any time limits in the domestic laws of these States. The competent authorities of the Contracting States shall by mutual	ARTIGO 25 Procedimento de acordo mútuo 1. Se uma pessoa considerar que as ações de um ou ambos os Estados Contratantes resultem ou resultarão para ele em tributação em desacordo com as disposições desta Convenção, pode, independentemente das medidas previstas no direito interno destes Estados, apresentar o seu caso à autoridade competente de qualquer Estado Contratante. O caso deve ser apresentado no prazo de três anos a partir da primeira notificação da ação resultante da tributação em desconformidade com as disposições da Convenção. 2. A autoridade competente deve esforçar-se, se a objeção lhe parecer ser justificada e se não for capaz de chegar a uma solução satisfatória, para resolver o caso por mútuo acordo com a autoridade competente do outro Estado Contratante, a fim de evitar a tributação que não esteja em conformidade com a Convenção. Qualquer acordo alcançado será implementado, não obstante qualquer tempo de limitação no direito interno dos Estados Contratantes. 3. As autoridades competentes dos Estados Contratantes esforçar-se-ão para resolver por mútuo acordo quaisquer dificuldades ou dúvidas resultantes da interpretação ou aplicação da Convenção. Eles também podem se consultar em conjunto para a eliminação de dupla tributação nos casos não previstos na Convenção. 4. As autoridades competentes dos Estados Contratantes devem se comunicar uma com as outras diretamente, incluindo através de uma Comissão conjunta constituída por si ou seus representantes, com o objetivo de chegar a um acordo no sentido dos parágrafos anteriores. 5. Onde, a) nos termos do parágrafo 1, uma pessoa apresentou um caso à autoridade competente de um Estado Contratante com base no fato de as ações de um ou de ambos os Estados Contratantes tenham resultado para essa pessoa em tributação em desacordo com as disposições da presente Convenção, e b) as autoridades competentes não conseguem chegar a acordo para resolver esse caso de acordo com o parágrafo 2 no prazo de dois anos a contar da data em que todas as informações exigidas pelas autoridades competentes para julgar o caso foi fornecidas a ambas as autoridades competentes, quaisquer questões não resolvidas resultantes do caso devem ser submetidas à arbitragem se a pessoa assim o solicitar por escrito. Estas questões não resolvidas não devem, no entanto, ser submetidas a arbitragem se uma decisão sobre estas questões já tiverem sido proferida por um Tribunal administrativo ou judicial de qualquer Estado. A menos que uma pessoa diretamente afetada pelo caso não aceite o acordo mútuo que implemente a decisão arbitral, essa decisão é vinculativa para ambos os Estados Contratantes e deve ser implementada, não obstante quaisquer prazos na legislação nacional desses Estados. As autoridades competentes dos

agreement settle the mode of application of this paragraph.	agreement settle the mode of application of this paragraph.	Estados Contratantes estabelecerão, de comum acordo, o modo de aplicação do presente parágrafo.
ARTICLE 26 EXCHANGE OF INFORMATION 1. 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 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. 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 of, 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. 3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation: a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State; b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State; c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (order public). 4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information. 5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an	ARTICLE 26 EXCHANGE OF INFORMATION 1. 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 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. 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 of, 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. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorizes such use. 3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation: a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State; b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State; c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (order public). 4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.	ARTIGO 26 Troca de Informações 1. As autoridades competentes dos Estados Contratantes trocarão essas informações quando for previsivelmente relevante para a execução das disposições da presente Convenção ou à administração ou à execução das leis nacionais relativas a tributação de todos os tipos e as descrições impostas em nome dos Estados Contratantes, ou respectivas subdivisões políticas ou autoridades locais, na medida em que a tributação aqui exposta não seja contrária à Convenção. A troca de informações não é restringida pelos Artigos 1 e 2. 2. Quaisquer informações recebidas nos termos do parágrafo 1 por um Estado Contratante são tratadas como secretas da mesma forma que as informações obtidas ao abrigo das leis domésticas desse Estado e só serão divulgadas a pessoas ou autoridades (incluindo tribunais judiciais e administrativos) preocupados com a avaliação ou cobrança de, a execução ou repressão em relação à, a determinação de recursos em relação aos impostos a que se refere o parágrafo 1, ou a fiscalização destes. Tais pessoas ou autoridades devem utilizar as informações apenas para esses fins. Estas pessoas podem divulgar a informação em processo judicial público ou em decisões judiciais. Não obstante, as informações recebidas por um Estado Contratante podem ser utilizadas para outros fins quando essas informações podem ser usadas para outros fins de acordo com as leis de ambos os Estados e a autoridade competente do Estado fornecedor autorizar essa utilização. 3. Em nenhum caso as disposições dos parágrafos 1 e 2 devem ser interpretadas para impor a um Estado Contratante a obrigação: a) realizar medidas administrativas em desacordo com as leis e práticas administrativas desse ou do outro Estado Contratante; b) fornecer informações que não sejam obtidas sob as leis ou no normal curso da administração desse ou do outro Estado Contratante; c) fornecer informações que revelem qualquer segredo comercial, industrial, de negócio ou profissional ou de um processo comercial ou de informação, cuja divulgação seria contrária à ordem pública. 4. Se as informações forem solicitadas por um Estado Contratante em conformidade com o presente Artigo, o outro Estado Contratante utilizará as suas medidas de recolha de informações para obter as informações solicitadas, embora esse outro Estado possa não necessitar de tais informações para sua própria tributação. A obrigação contida anteriormente é sujeita as limitações do parágrafo 3, mas em nenhum caso tais limitações serão interpretadas como forma de autorizar um Estado Contratante a recusar a fornecer informações unicamente porque não tem

agency or a fiduciary capacity or because it relates to ownership interests in a person.	5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.	interesse interno em tais informações. 5. Em nenhum caso, as disposições do parágrafo 3 devem ser interpretadas para permitir a um Estado Contratante a recusar a fornecer informações unicamente porque a informação é detida por um Banco, outra instituição financeira, candidato ou pessoa que atue numa agência ou instituição fiduciária ou porque se relaciona com interesses de propriedade em uma pessoa.
ARTICLE 27 ASSISTANCE IN THE COLLECTION OF TAXES 1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article. 2. The term "revenue claim" as used in this Article means an amount owed in respect of 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 this Convention or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount. 3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State. 4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection. 5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition,	ARTICLE 27 ASSISTANCE IN THE COLLECTION OF TAXES 1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article. 2. The term "revenue claim" as used in this Article means an amount owed in respect of 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 this Convention or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount. 3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State. 4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection. 5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition,	ARTIGO 27 Assistência na cobrança de impostos 1. Os Estados Contratantes devem prestar assistência mútua na cobrança de créditos fiscais. Esta assistência não é restringida pelos Artigos 1 e 2. As autoridades competentes dos Estados Contratantes podem, de comum acordo, estabelecer o modo de aplicação do presente Artigo. 2. O termo "crédito fiscal", utilizado no presente Artigo, significa um montante devido a título de impostos de todos os tipos e à descrição imposta em nome do Estado Contratante ou das suas subdivisões políticas ou autoridades locais, na medida em que a tributação aqui tratada não é contrária à presente Convenção ou a qualquer outro instrumento a que os Estados Contratantes são partes, bem como os juros, as sanções administrativas e os custos de cobrança ou conservação relacionada a tal quantia. 3. Quando um crédito fiscal de um Estado Contratante for executável ao abrigo das leis daquele Estado e é devida por uma pessoa que, nesse momento, não pode, sob as leis desse Estado, impedir sua cobrança, esse crédito fiscal deve, a pedido da autoridade competente desse Estado, ser aceite para efeitos de cobrança pela autoridade do outro Estado Contratante. Esse crédito fiscal deve ser cobrado por esse outro Estado em conformidade com as disposições da sua legislação aplicável a execução e cobrança de seus próprios impostos como se o crédito fiscal fosse um crédito fiscal daquele outro Estado. 4. Quando um crédito fiscal de um Estado Contratante for um pedido em relação ao qual aquele Estado pode, nos termos da sua lei, tomar medidas de conservação com vista a assegurar o recolhimento de receitas, o crédito fiscal deve, a pedido da autoridade competente desse Estado, ser aceite para efeitos de tomar medidas de conservação pela autoridade competente do outro Estado Contratante. Esse outro Estado tomará medidas de conservação relativamente a esse crédito fiscal em conformidade com as disposições de sua própria legislação como se o crédito fiscal fosse um crédito fiscal daquele outro Estado mesmo que, no momento em que essas medidas forem aplicadas, o crédito fiscal não é executável no primeiro Estado mencionado ou é devida por uma pessoa que tem o direito de impedir a sua recolha. 5. Não obstante o disposto nos parágrafos 3 e 4, um crédito fiscal aceito por um Estado Contratante para efeitos dos parágrafos 3 ou 4 não deve, nesse Estado, ser sujeito aos prazos ou concedidos qualquer prioridade aplicável a um crédito fiscal sob as leis

a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State. 6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State. 7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, or b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request. 8. In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation: a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State; b) to carry out measures which would be contrary to public policy (order public); c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice; d) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State.	a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State. 6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State. 7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, or b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request. 8. In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation: a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State; b) to carry out measures which would be contrary to public policy (order public); c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice; d) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State.	desse Estado em razão de sua natureza como tal. Além disso, o crédito fiscal aceito por um Estado Contratante para efeitos dos parágrafos 3 ou 4 não deve, nesse Estado, ter qualquer prioridade aplicável a esse crédito fiscal ao abrigo das leis do outro Estado Contratante. 6. Procedimentos relativos à existência, validade ou montante de um crédito fiscal de um Estado Contratante não serão intentadas perante os tribunais administrativos e/ou judiciais do outro Estado Contratante. 7. Sempre que, a qualquer momento, após a solicitação ter sido feita por um Estado Contratante sob os parágrafos 3 ou 4, e antes de o outro Estado Contratante ter recolhido e remitido o relevante crédito fiscal para o primeiro Estado mencionado, o relevante crédito fiscal deixa de ser a) no caso de um pedido ao abrigo do parágrafo 3, um crédito fiscal do primeiro Estado mencionado que é executada sob as leis desse Estado e é devida por uma pessoa que, nesse momento, não pode, sob as leis desse Estado, impedir a sua cobrança, ou b) no caso de um pedido nos termos do parágrafo 4, um crédito fiscal do primeiro Estado mencionado em relação ao qual esse Estado pode, nos termos de sua legislação, tomar medidas de conservação com vista a assegurar a sua recolha a autoridade competente do primeiro Estado mencionado notificará prontamente a autoridade competente do outro estado desse fato e, por opção do outro Estado, o primeiro Estado mencionado deve suspender ou retirar o seu pedido. 8. Em nenhum caso, as disposições do presente Artigo devem ser interpretadas de modo a impor a um Estado Contratante a obrigação: a) realizar medidas administrativas em desacordo com as leis e prática administrativa desse ou do outro Estado Contratante; b) realizar medidas que sejam contrárias à ordem pública; c) prestar assistência se o outro Estado Contratante não tiver adotado todas as medidas razoáveis de cobrança ou conservação, conforme o caso, disponível nas suas leis ou práticas administrativas; d) prestar assistência nos casos em que os encargos administrativos para esse Estado é claramente desproporcional ao benefício a ser recebido pelo outro Estado Contratante.
ARTICLE 28 MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.	ARTICLE 28 MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.	ARTIGO 28 Membros de missões consulares e postos consulares Nada na presente Convenção afetará os privilégios fiscais dos membros de missões ou postos consulares ao abrigo das regras gerais do direito internacional ou disposições de acordos especiais.

ARTICLE 29 TERRITORIAL EXTENSION 1. This Convention may be extended, either in its entirety or with any necessary modifications [to any part of the territory of (State A) or of (State B) which is specifically excluded from the application of the Convention or], to any State or territory for whose international relations (State A) or (State B) is responsible, which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures. 2. Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under Article 30 shall also terminate, in the manner provided for in that Article, the application of the Convention [to any part of the territory of (State A) or of (State B) or] to any State or territory to which it has been extended under this Article.	ARTICLE 29 TERRITORIAL EXTENSION 1. This Convention may be extended, either in its entirety or with any necessary modifications [to any part of the territory of (State A) or of (State B) which is specifically excluded from the application of the Convention or], to any State or territory for whose international relations (State A) or (State B) is responsible, which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures. 2. Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under Article 30 shall also terminate, in the manner provided for in that Article, the application of the Convention [to any part of the territory of (State A) or of (State B) or] to any State or territory to which it has been extended under this Article.	ARTIGO 29 Direito a benefícios 1. [Disposição que, reservado aos parágrafos 3 a 5, restringe os benefícios de Tratados a residente de um Estado Contratante que seja uma "pessoa qualificada" tal como definida no parágrafo 2]. 2. [Definição de situações em que um residente é uma pessoa qualificada, que abrange — um indivíduo; — um Estado Contratante, as suas subdivisões políticas e as suas agências e instrumentos; — certas sociedades e entidades de capital aberto; — certas filiais de empresas e entidades de capital aberto; — certas organizações sem fins lucrativos e fundos de pensões reconhecidos; — outras entidades que cumpram determinados requisitos de propriedade e de erosão de base; — determinados veículos de investimento coletivo.] 3. [Provisão que forneça benefícios do Tratado a determinados rendimentos recebidos por uma pessoa que não é uma pessoa qualificada se a pessoa está envolvida na conduta ativa de um negócio no seu Estado de residência e os rendimentos emanam, ou são incidentais a esse negócio]. 4. [Provisão que forneça benefícios do Tratado a uma pessoa que não seja uma pessoa qualificada se pelo menos mais do que uma proporção acordada dessa entidade for detida por certas pessoas com direito a benefícios equivalentes]. 5. [Provisão que permite benefícios do Tratado a uma pessoa que se qualifica como "empresa sede"]. 6. [Provisão que permita à autoridade competente de um Estado Contratante conceder determinados benefícios do Tratado a uma pessoa onde os benefícios seriam negados de acordo com a previsão do parágrafo 1]. 7. [Definições aplicáveis para efeitos dos parágrafos 1 a 7]. 8. a) Quando (i) uma empresa de um Estado Contratante receba rendimentos do outro Estado Contratante e o primeiro Estado mencionado trata esses rendimentos como imputável a um estabelecimento permanente da empresa situada numa Terceira jurisdição, e II) os lucros atribuíveis a esse estabelecimento permanente estão isentos de imposto no primeiro Estado mencionado, os benefícios da presente Convenção não se aplicarão a qualquer rubrica de rendimentos que o imposto na Terceira jurisdição é inferior ao menor de [taxa a ser determinada bilateralmente] do montante desse item de renda e 60 por cento do imposto que seria imposto no primeiro Estado mencionado desse item de rendimento se esse estabelecimento permanente estava situado no primeiro Estado mencionado. Em tal caso os rendimentos a que as disposições do presente parágrafo se apliquem devem ser tributáveis de acordo com o direito interno do outro Estado, não obstante qualquer outra disposição da Convenção. b) as disposições precedentes do presente parágrafo não se aplicarão se os

		rendimentos recebidos do outro Estado emanam de, ou são incidentais a, conduta ativa de negócio exercido através do estabelecimento permanente (outro que o negócio de fazer, gerir ou simplesmente holding de investimentos por conta da própria empresa, a menos que essas atividades sejam bancárias, seguros ou atividades mobiliárias exercidas por um Banco, empresa de seguros ou revendedor de valores mobiliários, respectivamente). c) se as prestações previstas na presente Convenção forem negadas nos termos das disposições do presente parágrafo no que diz respeito a um item de rendimento recebido por um residente de um Estado Contratante, a autoridade competente do outro Estado Contratante pode, todavia, conceder estes benefícios em relação ao item de rendimento se, em resposta a um pedido de tal residente, tal autoridade competente determina que a concessão desses benefícios se justifica à luz das razões como esse residente não satisfez os requisitos do presente parágrafo como a existência de perdas). A autoridade competente do Estado Contratante que um pedido foi feito ao abrigo da sentença precedente deve consultar com a autoridade competente do outro Estado Contratante antes de qualquer conceder ou negar o pedido 9. Não obstante as outras disposições da presente Convenção, um benefício ao abrigo desta Convenção não é concedida em relação a uma rubrica de rendimentos ou de capital se é razoável concluir, tendo em conta todos os fatos e circunstâncias relevantes, que a obtenção desse benefício foi um dos propósitos principais de qualquer arranjo ou transação que resultou direta ou indiretamente nesse benefício, a menos que seja estabelecido que conceder esse benefício nessas circunstâncias seria de acordo com o objeto e finalidade das disposições pertinentes da presente Convenção.
ARTICLE 30 ENTRY INTO FORCE 1. This Convention shall be ratified and the instruments of ratification shall be exchanged at.....as soon as possible. 2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect: a) (in State A): b) (in State B):	ARTICLE 30 ENTRY INTO FORCE 1. This Convention shall be ratified and the instruments of ratification shall be exchanged at.....as soon as possible. 2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect: a) (in State A): b) (in State B):	ARTIGO 30 Extensão territorial 1. A presente Convenção pode ser alargada, na íntegra ou com qualquer modificação [a qualquer parte do território (Estado A) ou de (Estado B) que seja especificamente excluídos da aplicação da Convenção ou], a qualquer Estado ou território para os quais as relações internacionais (Estado A) ou (Estado B) é responsável, o que impõe impostos caráter substancialmente semelhante ao que a Convenção se aplica. Qualquer extensão deve ter efeito a partir dessa data e sujeita a essas modificações e condições, incluindo condições como a rescisão, como pode ser especificado e acordado entre os Estados Contratantes em notas a serem trocadas através de canais diplomáticos ou de qualquer outra forma, de acordo com os seus procedimentos constitucionais. 2. Salvo acordo em contrário por ambos os Estados Contratantes, a cessação da Convenção por um deles nos termos do Artigo 32 deve igualmente cessar, na forma previstos no mesmo Artigo, a aplicação da Convenção [a qualquer parte do território de (Estado A) ou de (Estado B) ou] a

		qualquer Estado ou território ao qual tenha sido estendido ao abrigo do presente Artigo.
ARTICLE 31 TERMINATION This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year ... In such event, the Convention shall cease to have effect: a) (in State A): b) (in State B):	ARTICLE 31 TERMINATION This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year ... In such event, the Convention shall cease to have effect: a) (in State A): b) (in State B):	ARTIGO 31 Entrada em vigor 1. A presente Convenção é ratificada e os instrumentos de ratificação são trocados em..... o mais rápido possível. 2. A Convenção entrará em vigor quando do intercâmbio de instrumentos de ratificação e as suas disposições terão efeito: a) (no Estado A): b) (no Estado B):
		ARTIGO 32 Denúncia A presente Convenção permanecerá em vigor até ser rescindida por um Estado Contratante. Qualquer Estado Contratante pode rescindir a Convenção, através de canais diplomáticos, por aviso de rescisão pelo menos seis meses antes do final de qualquer ano civil após o ano ... Nesse caso, a Convenção deixará de ter efeito: a) (no Estado A): b) (no Estado B):