COMMENTARY ON ARTICLE 19
CONCERNING THE TAXATION OF REMUNERATION IN RESPECT OF GOVERNMENT SERVICE

1. This Article applies to salaries, wages, and other similar remuneration, and pensions, in respect of government service. Similar provisions in old bilateral conventions were framed in order to conform with the rules of international courtesy and mutual respect between sovereign States. They were therefore rather limited in scope. However, the importance and scope of Article 19 has increased on account of the fact that, consequent on the growth of the public sector in many countries, governmental activities abroad have been considerably extended. According to the original version of paragraph 1 of Article 19 in the 1963 Draft Convention the paying State had a right to tax payments made for services rendered to that State or political subdivision or local authority thereof. The expression "may be taxed" was used and this did not connote an exclusive right of taxation.

(Amended on 31 March 1994; see HISTORY)

2. In the 1977 Model Convention, paragraph 1 was split into two paragraphs, paragraph 1 concerning salaries, wages, and other similar remuneration other than a pension and paragraph 2 concerning pensions, respectively. Unlike the original provision, subparagraph *a)* of paragraphs 1 and 2 are both based on the principle that the paying State shall have an exclusive right to tax the payments. Countries using the credit method as the general method for relieving double taxation in their conventions are thus, as an exception to that method, obliged to exempt from tax such payments to their residents as are dealt with under paragraphs 1 and 2. If both Contracting States apply the exemption method for relieving double taxation, they can continue to use the expression "may be taxed" instead of "shall be taxable only". In relation to such countries the effect will of course be the same irrespective of which of these expressions they use. It is understood that the expression "shall be taxable only" shall not prevent a Contracting State from taking into account the income exempted under subparagraph *a)* of paragraphs 1 and 2 in determining the rate of tax to be imposed on income derived by its residents from other sources. The principle of giving the exclusive taxing right to the paying State is contained in so many of the existing conventions between OECD member countries that it can be said to be already internationally accepted. It is also in conformity with the conception of international courtesy which is at the basis of the Article and with the provisions of the *Vienna Conventions on Diplomatic and Consular Relations*. It should, however, be observed that the Article is not intended to restrict the operation of any rules originating from international law in the

case of diplomatic missions and consular posts (see Article 28) but deals with cases not covered by such rules.

(Amended on 28 January 2003; see HISTORY)

2.1 In 1994, a further amendment was made to paragraph 1 by replacing the term "remuneration" by the words "salaries, wages, and other similar remuneration". This amendment was intended to clarify the scope of the Article, which only applies to State employees and to persons deriving pensions from past employment by a State, and not to persons rendering independent services to a State or deriving pensions related to such services.

(Added on 31 March 1994; see HISTORY)

2.2 Member countries have generally understood the term "salaries, wages and other similar remuneration ... paid" to include benefits in kind received in respect of services rendered to a State or political subdivision or local authority thereof (*e.g.* the use of a residence or automobile, health or life insurance coverage and club memberships).

(Replaced on 23 October 1997; see HISTORY)

3. The provisions of the Article apply to payments made not only by a State but also by its political subdivisions and local authorities (constituent states, regions, provinces, *départements*, cantons, districts, *arrondissements*, *Kreise*, municipalities, or groups of municipalities, etc.).

(Amended on 11 April 1977; see HISTORY)

4. An exception from the principle of giving exclusive taxing power to the paying State is contained in subparagraph *b)* of paragraph 1. It is to be seen against the background that, according to the Vienna Conventions mentioned above, the receiving State is allowed to tax remuneration paid to certain categories of personnel of foreign diplomatic missions and consular posts, who are permanent residents or nationals of that State. Given that pensions paid to retired government officials ought to be treated for tax purposes in the same way as salaries or wages paid to such employees during their active time, an exception like the one in subparagraph *b)* of paragraph 1 is incorporated also in subparagraph *b)* of paragraph 2 regarding pensions. Since the condition laid down in subdivision *b)(ii)* of paragraph 1 cannot be valid in relation to a pensioner, the only prerequisite for the receiving State's power to tax the pension is that the pensioner must be one of its own residents and nationals.

(Amended on 15 July 2005; see HISTORY)

5. According to Article 19 of the 1963 Draft Convention, the services rendered to the State, political subdivision or local authority had to be rendered "in the discharge of functions of a governmental nature". That

expression was deleted in the 1977 Model Convention. Some OECD member countries, however, thought that the exclusion would lead to a widening of the scope of the Article. Contracting States who are of that view and who feel that such a widening is not desirable may continue to use, and preferably specify, the expression "in the discharge of functions of a governmental nature" in their bilateral conventions.

(Amended on 23 July 1992; see HISTORY)

5.1 Whilst the word "pension", under the ordinary meaning of the word, covers only periodic payments, the words "other similar remuneration", which were added to paragraph 2 in 2005, are broad enough to cover non-periodic payments. For example, a lump-sum payment in lieu of periodic pension payments that is made to a former State employee after cessation of employment may fall within paragraph 2 of the Article. Whether a particular lump-sum payment made in these circumstances is to be considered as other remuneration similar to a pension falling under paragraph 2 or as final remuneration for work performed falling under paragraph 1 is a question of fact which can be resolved in light of the factors presented in paragraph 5 of the Commentary on Article 18.

(Added on 15 July 2005; see HISTORY)

5.2 It should be noted that the expression "out of funds created by" in subparagraph *a)* of paragraph 2 covers the situation where the pension is not paid directly by the State, a political subdivision or a local authority but out of separate funds created by a government body. In addition, the original capital of the fund would not need to be provided by the State, a political subdivision or a local authority. The phrase would cover payments from a privately administered fund established for the government body.

(Added on 15 July 2005; see HISTORY)

5.3 An issue arises where pensions are paid for combined private and government services. This issue may frequently arise where a person has been employed in both the private and public sector and receives one pension in respect of both periods of employment. This may occur either because the person participated in the same scheme throughout the employment or because the person's pension rights were portable. A trend towards greater mobility between private and public sectors may increase the significance of this issue.

(Added on 15 July 2005; see HISTORY)

5.4 Where a civil servant having rendered services to a State has transferred a right to a pension from a public scheme to a private scheme the pension

payments would be taxed only under Article 18 because such payment would not meet the technical requirement of subparagraph 2 *a)*.

(Added on 15 July 2005; see HISTORY)

5.5 Where the transfer is made in the opposite direction and the pension rights are transferred from a private scheme to a public scheme, some States tax the whole pension payments under Article 19. Other States, however, apportion the pension payments based on the relative source of the pension entitlement so that part is taxed under Article 18 and another part under Article 18. In so doing, some States consider that if one source has provided by far the principal amount of the pension, then the pension should be treated as having been paid exclusively from that source. Nevertheless, it is recognised that apportionment often raises significant administrative difficulties.

(Added on 15 July 2005; see HISTORY)

5.6 Contracting States may be concerned about the revenue loss or the possibility of double non-taxation if the treatment of pensions could be changed by transferring the fund between public and private schemes. Apportionment may counter this; however, to enable apportionment to be applied to pensions rights that are transferred from a public scheme to a private scheme, Contracting States may, in bilateral negotiations, consider extending subparagraph 2 *a)* to cover the part of any pension or other similar remuneration that it is paid in respect of services rendered to a Contracting State or a political subdivision or a local authority thereof. Such a provision could be drafted as follows:

2. *a)* Notwithstanding the provisions of paragraph 1, the part of any pension or other similar remuneration that is paid in respect of services rendered to a Contracting State or a political subdivision or a local authority thereof shall be taxable only in that Contracting State.

Alternatively Contracting States may address the concern by subjecting all pensions to a common treatment.

(Added on 15 July 2005; see HISTORY)

6. Paragraphs 1 and 2 do not apply if the services are performed in connection with business carried on by the State, or one of its political subdivisions or local authorities, paying the salaries, wages, pensions or other similar remuneration. In such cases the ordinary rules apply: Article 15 for wages and salaries, Article 16 for directors' fees and other similar payments, Article 17 for entertainers and sportspersons, and Article 18 for pensions. Contracting States, wishing for specific reasons to dispense with paragraph 3 in their bilateral conventions, are free to do so thus bringing in under paragraphs 1 and 2 also services rendered in connection with business. In

view of the specific functions carried out by certain public bodies, *e.g.* State Railways, the Post Office, State-owned theatres etc., Contracting States wanting to keep paragraph 3 may agree in bilateral negotiations to include under the provisions of paragraphs 1 and 2 salaries, wages, pensions, and other similar remuneration paid by such bodies, even if they could be said to be performing business activities.

(Amended on 15 July 2005; see HISTORY)

Observation on the Commentary

7. The *Netherlands* does not adhere to the interpretation in paragraphs 5.4 and 5.6. Apportionment of pension payments on the base of the relative source of the pension entitlements, private or government employment, is in the Netherlands view also possible if pension rights are transferred from a public pension scheme to a private scheme.

(Added on 15 July 2005; see HISTORY)

Reservations on the Article

8. *Germany* reserves the right to include a provision that covers services rendered to special private law institutions serving public purposes and financed from public budgets, e.g. the Goethe Institute or the German Academic Exchange Service, as well as remuneration paid to a specialist or volunteer seconded to the other Contracting State under a development assistance program, as government services under Article 19.

(Added on 15 July 2014; see HISTORY)

9. The *United States* reserves the right to modify the text to indicate that its application is not limited by Article 1.

(Renumbered on 23 July 1992; see HISTORY)

10. *(Deleted on 29 April 2000; see HISTORY)*

11. *France* reserves the right to specify in its conventions that salaries, wages, and other similar remuneration paid by a Contracting State or a political subdivision or 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 if the individual is a national of both Contracting States. Also, France reserves its position concerning subdivision *b)(ii)* of paragraph 1 in view of the difficulties raised by this provision.

(Amended on 31 March 1994; see HISTORY)

12. *(Deleted on 15 July 2005; see HISTORY)*

13. *France* considers that the scope of the application of Article 19 should cover:

— remuneration paid by public legal entities of the State or a political subdivision or local authority thereof, because the identity of the payer is less significant than the public nature of the income;

— public remuneration of entertainers and sportspersons in conformity with the wording of the Model prior to 1995 (without applying the criterion of business activity, seldom relevant in these cases), as long as Article 17 does not contain a provision along the lines suggested in paragraph 14 of the Commentary on Article 17.

(Amended on 29 April 2000; see HISTORY)

HISTORY

Title: Amended when the 1977 Model Convention was adopted by the OECD Council on 11 April 1977. In the 1963 Draft Convention (adopted by the OECD Council on 30 July 1963) and until the adoption of the 1977 Model Convention, the title read as follows:

"COMMENTARY ON ARTICLE 19 CONCERNING THE TAXATION OF REMUNERATION IN RESPECT OF GOVERNMENTAL FUNCTIONS."

Paragraph 1: Amended on 31 March 1994 by the report entitled "1994 Update to the Model Tax Convention", adopted by the OECD Council on 31 March 1994. In the 1977 Model Convention and until 31 March 1994, paragraph 1 read as follows:

"1. This Article applies to remuneration in respect of government service. Similar provisions in old bilateral conventions were framed in order to conform with the rules of international courtesy and mutual respect between sovereign States. They were therefore rather limited in scope. However, the importance and scope of Article 19 has increased on account of the fact that, consequent on the growth of the public sector in many countries, governmental activities abroad have been considerably extended. According to the original version of paragraph 1 of Article 19 in the 1963 Draft Convention the paying State had a right to tax payments made for services rendered to that State or political subdivision or local authority thereof. The expression "may be taxed" was used and this did not connote an exclusive right of taxation."

Paragraph 1 was previously amended and the last sentence was incorporated into paragraph 2 when in the 1977 Model Convention was adopted by the OECD Council on 11 April 1977. In the 1963 Draft Convention (adopted by the OECD Council on 30 July 1963) and until the adoption of the 1977 Model Convention, paragraph 1 read as follows:

"1. Article 19 applies to remuneration in respect of governmental functions. The similar provisions which are frequently found in bilateral Convention were originally framed in order to conform with the rules of international courtesy and mutual respect between sovereign States (see Mexico Model Convention, Commentary ad Article VIII). They were therefore rather limited in scope. The first paragraph of Article 19 lays down a general principle, the scope of which may be determined by the Contracting States by means of special provisions. It should be observed that the Article is not intended to restrict the operation of any rules originating from international law in the case of diplomatic and consular missions (see Art. 27) but deals with cases not covered by such rules."

Paragraph 2: Amended on 28 January 2003, by replacing the reference to Article 27 by a reference to Article 28, as a consequence of the addition of a new Article 27 (Assistance in the Collection of Taxes) and the renumbering of Article 27, by the report entitled "The 2002 Update to the Model Tax Convention", adopted by the OECD Council on 28 January 2003. After 31 March 1994 and until 28 January 2003, paragraph 2 read as follows:

> "2. In the 1977 Model Convention, paragraph 1 was split into two paragraphs, paragraph 1 concerning salaries, wages, and other similar remuneration other than a pension and paragraph 2 concerning pensions, respectively. Unlike the original provision, subparagraph *a)* of paragraphs 1 and 2 are both based on the principle that the paying State shall have an exclusive right to tax the payments. Countries using the credit method as the general method for relieving double taxation in their conventions are thus, as an exception to that method, obliged to exempt from tax such payments to their residents as are dealt with under paragraphs 1 and 2. If both Contracting States apply the exemption method for relieving double taxation, they can continue to use the expression "may be taxed" instead of "shall be taxable only". In relation to such countries the effect will of course be the same irrespective of which of these expressions they use. It is understood that the expression "shall be taxable only" shall not prevent a Contracting State from taking into account the income exempted under subparagraph *a)* of paragraphs 1 and 2 in determining the rate of tax to be imposed on income derived by its residents from other sources. The principle of giving the exclusive taxing right to the paying State is contained in so many of the existing conventions between OECD member countries that it can be said to be already internationally accepted. It is also in conformity with the conception of international courtesy which is at the basis of the Article and with the provisions of the Vienna Conventions on Diplomatic and Consular Relations. It should, however, be observed that the Article is not intended to restrict the operation of any rules originating from international law in the case of diplomatic missions and consular posts (see Article 27) but deals with cases not covered by such rules."

Paragraph 2 was previously amended on 31 March 1994 by the report entitled "1994 Update to the Model Tax Convention", adopted by the OECD Council on 31 March 1994. After 23 July 1992 and until 31 March 1994, paragraph 2 read as follows:

> "2. In the 1977 Model Convention, paragraph 1 was split into two paragraphs, paragraph 1 concerning remuneration other than a pension and paragraph 2 concerning pensions, respectively. Unlike the original provision, subparagraph *a)* of paragraphs 1 and 2 are both based on the principle that the paying State shall have an exclusive right to tax the payments. Countries using the credit method as the general method for relieving double taxation in their conventions are thus, as an exception to that method, obliged to exempt from tax such payments to their residents as are dealt with under paragraphs 1 and 2. If both Contracting States apply the exemption method for relieving double taxation, they can continue to use the expression "may be taxed" instead of "shall be taxable only". In relation to such countries the effect will of course be the same irrespective of which of these expressions they use. It is understood that the expression "shall be taxable only" shall not prevent a Contracting State from taking into account the income exempted under subparagraph *a)* of paragraphs 1 and 2 in determining the rate of tax to be imposed on income derived by its residents from other sources. The principle of giving the exclusive taxing right to the paying State is contained in so many of the existing conventions between OECD member countries that it can be said to be already internationally accepted. It is also in conformity with the conception of international courtesy which is at the basis of the Article and with the provisions of the Vienna Conventions on Diplomatic and Consular Relations. It

should, however, be observed that the Article is not intended to restrict the operation of any rules originating from international law in the case of diplomatic missions and consular posts (see Article 27) but deals with cases not covered by such rules."

Paragraph 2 was previously amended on 23 July 1992 by the report entitled "The Revision of the Model Convention", adopted by the OECD Council on 23 July 1992, by replacing the words "On revision of the Article" with "In the 1977 Model Convention" at the beginning of the paragraph. In the 1977 Model Convention and until 23 July 1992, paragraph 2 read as follows:

"2. On revision of the Article, paragraph 1 was split into two paragraphs, paragraph 1 concerning remuneration other than a pension and paragraph 2 concerning pensions, respectively. Unlike the original provision, subparagraph *a)* of paragraphs 1 and 2 are both based on the principle that the paying State shall have an exclusive right to tax the payments. Countries using the credit method as the general method for relieving double taxation in their conventions are thus, as an exception to that method, obliged to exempt from tax such payments to their residents as are dealt with under paragraphs 1 and 2. If both Contracting States apply the exemption method for relieving double taxation, they can continue to use the expression "may be taxed" instead of "shall be taxable only". In relation to such countries the effect will of course be the same irrespective of which of these expressions they use. It is understood that the expression "shall be taxable only" shall not prevent a Contracting State from taking into account the income exempted under subparagraph *a)* of paragraphs 1 and 2 in determining the rate of tax to be imposed on income derived by its residents from other sources. The principle of giving the exclusive taxing right to the paying State is contained in so many of the existing conventions between OECD member countries that it can be said to be already internationally accepted. It is also in conformity with the conception of international courtesy which is at the basis of the Article and with the provisions of the Vienna Conventions on Diplomatic and Consular Relations. It should, however, be observed that the Article is not intended to restrict the operation of any rules originating from international law in the case of diplomatic missions and consular posts (see Article 27) but deals with cases not covered by such rules."

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Paragraph 2 of the 1963 Draft Convention was replaced when the 1977 Model Convention was adopted by the OECD Council on 11 April 1977. At that time, paragraph 2 of the 1963 Draft Convention was deleted and a new paragraph 2 that included the last sentence of paragraph 1 (see History of paragraph 1) was added when the 1977 Model Convention was adopted. In the 1963 Draft Convention (adopted by the OECD Council on 30 July 1963) and until the adoption of the 1977 Model Convention, paragraph 2 read as follows:

"2. It should be noted that the term 'remuneration' used in Article 19 covers wages and salaries and pensions, to the exclusion of any other payments. The provisions of the Article apply to remuneration paid not only by a State but also by its political subdivisions and local authorities (member States, cantons, municipalities, etc...). Paragraph 1 of the Article does not apply if the services are performed in connection with trade or business carried on by the State, or one of its political subdivisions or local authorities, paying the remuneration. In such cases, the ordinary rule applies (Article 15 for wages and salaries, Article 16 for directors' fees and similar payments and Article 18 for pensions)."

Paragraph 2.1: Added on 31 March 1994, by the report entitled "1994 Update to the Model Tax Convention", adopted by the OECD Council on 31 March 1994.

Paragraph 2.2: Replaced on 23 October 1997 when paragraph 2.2 was deleted and a new paragraph 2.2 was added by the report entitled "The 1997 Update to the Model Tax Convention", adopted by the OECD Council on 23 October 1997. After 31 March 1994 and until 23 October 1997, paragraph 2.2 read as follows:

> "2.2 It should be noted that the term "paid" has a very wide meaning in the context of paragraph 1. It would apply, for instance, to the provision of remuneration in the form of a taxable employment benefit (*e.g.* the payment by the employer of the rent for an apartment occupied by the employee) granted to an employee by a Contracting State or political subdivision or local authority thereof."

Paragraph 2.2 was added on 31 March 1994 by the report entitled "1994 Update to the Model Tax Convention", adopted by the OECD Council on 31 March 1994.

Paragraph 3: Amended when the 1977 Model Convention was adopted by the OECD Council on 11 April 1977. At the same time, the heading preceding paragraph 3 was moved immediately before paragraph 7. In the 1963 Draft Convention (adopted by the OECD Council on 30 July 1963) and until the adoption of the 1977 Model Convention, paragraph 3 read as follows:

> "3. *Canada* reserves its position on this Article. When negotiating Conventions with the Member countries, the Canadian authorities would wish to have pensions excluded from this article so that all pension would be taxed only in the country where they are received."

Paragraph 4: Amended on 15 July 2005, by removing the last sentence, by the report entitled "The 2005 Update to the Model Tax Convention", adopted by the OECD Council on 15 July 2005. After 23 July 1992 and until 15 July 2005, paragraph 4 read as follows:

> "4. An exception from the principle of giving exclusive taxing power to the paying State is contained in subparagraph *b)* of paragraph 1. It is to be seen against the background that, according to the Vienna Conventions mentioned above, the receiving State is allowed to tax remuneration paid to certain categories of personnel of foreign diplomatic missions and consular posts, who are permanent residents or nationals of that State. Given that pensions paid to retired government officials ought to be treated for tax purposes in the same way as salaries or wages paid to such employees during their active time, an exception like the one in subparagraph *b)* of paragraph 1 is incorporated also in subparagraph *b)* of paragraph 2 regarding pensions. Since the condition laid down in subdivision *b)(ii)* of paragraph 1 cannot be valid in relation to a pensioner, the only prerequisite for the receiving State's power to tax the pension is that the pensioner must be one of its own residents and nationals. It should be noted that the expression "out of funds created by" in subparagraph *a)* of paragraph 2 covers the situation where the pension is not paid directly by the State, a political subdivision or a local authority but out of separate funds created by them."

Paragraph 4 was previously amended on 23 July 1992 by replacing the words "subparagraph *b)*(ii)" with "subdivision *b)(ii)*" by the report entitled "The Revision of the Model Convention", adopted by the OECD Council on 23 July 1992. In the 1977 Model Convention and until 23 July 1992, paragraph 4 read as follows:

> "4. An exception from the principle of giving exclusive taxing power to the paying State is contained in subparagraph *b)* of paragraph 1. It is to be seen against the background that, according to the Vienna Conventions mentioned above, the receiving State is allowed to tax remuneration paid to certain categories of personnel of foreign diplomatic missions and consular posts, who are permanent residents or nationals of that State. Given that pensions paid to retired government officials ought to be treated for tax purposes in the same way as salaries or wages paid to such employees during their active time, an exception like the one in

subparagraph *b)* of paragraph 1 is incorporated also in subparagraph *b)* of paragraph 2 regarding pensions. Since the condition laid down in subparagraph *b)(ii)* of paragraph 1 cannot be valid in relation to a pensioner, the only prerequisite for the receiving State's power to tax the pension is that the pensioner must be one of its own residents and nationals. It should be noted that the expression "out of funds created by" in subparagraph *a)* of paragraph 2 covers the situation where the pension is not paid directly by the State, a political subdivision or a local authority but out of separate funds created by them."

Paragraph 4 was added when the 1977 Model Convention was adopted by the OECD Council on 11 April 1977.

Paragraph 5: Amended on 23 July 1992, by modifying the second sentence, by the report entitled "The Revision of the Model Convention", adopted by the OECD Council on 23 July 1992. In the 1977 Model Convention and until 23 July 1992, paragraph 5 read as follows:

"According to Article 19 of the 1963 Draft Convention, the services rendered to the State, political subdivision or local authority had to be rendered "in the discharge of functions of a governmental nature". In the course of the revision of the Article, it was decided to delete that expression. Some OECD member countries, however, thought that the exclusion would lead to a widening of the scope of the Article. Contracting States who are of that view and who feel that such a widening is not desirable may continue to use, and preferably specify, the expression "in the discharge of functions of a governmental nature" in their bilateral conventions."

Paragraph 5 was added when the 1977 Model Convention was adopted by the OECD Council on 11 April 1977.

Paragraph 5.1: Added on 15 July 2005 by the report entitled "The 2005 Update to the Model Tax Convention", adopted by the OECD Council on 15 July 2005.

Paragraph 5.2: Added on 15 July 2005 by the report entitled "The 2005 Update to the Model Tax Convention", adopted by the OECD Council on 15 July 2005.

Paragraph 5.3: Added on 15 July 2005 by the report entitled "The 2005 Update to the Model Tax Convention", adopted by the OECD Council on 15 July 2005.

Paragraph 5.4: Added on 15 July 2005 by the report entitled "The 2005 Update to the Model Tax Convention", adopted by the OECD Council on 15 July 2005.

Paragraph 5.5: Added on 15 July 2005 by the report entitled "The 2005 Update to the Model Tax Convention", adopted by the OECD Council on 15 July 2005.

Paragraph 5.6: Added on 15 July 2005 by the report entitled "The 2005 Update to the Model Tax Convention", adopted by the OECD Council on 15 July 2005.

Paragraph 6: Amended on 15 July 2005 by the report entitled "The 2005 Update to the Model Tax Convention", adopted by the OECD Council on 15 July 2005. After 21 September 1995 and until 15 July 2005, paragraph 6 read as follows:

"6. Paragraphs 1 and 2 do not apply if the services are performed in connection with business carried on by the State, or one of its political subdivisions or local authorities, paying the salaries, wages, or other similar remuneration or the pensions. In such cases the ordinary rules apply: Article 15 for wages and salaries, Article 16 for directors' fees and other similar payments, Article 17 for artistes and sportsmen, and Article 18 for pensions. Contracting States, wishing for specific reasons to dispense with paragraph 3 in their bilateral conventions, are free to do so thus bringing in under paragraphs 1 and 2 also services rendered in connection with business. In view of the specific functions carried out by certain public bodies, *e.g.* State Railways, the Post Office, State-owned theatres etc., Contracting States wanting to keep paragraph 3 may agree in bilateral negotiations to include under

the provisions of paragraphs 1 and 2 salaries, wages, and other similar remuneration, and pensions, paid by such bodies, even if they could be said to be performing business activities."

Paragraph 6 was previously amended on 21 September 1995 by the report entitled "The 1995 Update to the Model Tax Convention", adopted by the OECD Council on 21 September 1995. In the 1977 Model Convention and until 21 September 1995, paragraph 6 read as follows:

"6. Paragraphs 1 and 2 do not apply if the services are performed in connection with business carried on by the State, or one of its political subdivisions or local authorities, paying the remuneration. In such cases the ordinary rules apply: Article 15 for wages and salaries, Article 16 for directors' fees and other similar payments and Article 18 for pensions. Article 17 is not mentioned because paragraphs 1 and 2 of Article 19 are to apply to remuneration paid to artistes employed by the State, a political subdivision or a local authority thereof, irrespective of whether such artistes could be said to be rendering services in connection with business carried on by the State, the political subdivision or the local authority. Contracting States, wishing for specific reasons to dispense with paragraph 3 in their bilateral conventions, are free to do so thus bringing in under paragraphs 1 and 2 also services rendered in connection with business. In view of the specific functions carried out by certain public bodies, *e.g.* State Railways, the Post Office, State-owned theatres etc., Contracting States wanting to keep paragraph 3 may agree in bilateral negotiations to include under the provisions of paragraphs 1 and 2 remuneration paid by such bodies, even if they could be said to be performing business activities."

Paragraph 6 was added when the 1977 Model Convention was adopted by the OECD Council on 11 April 1977.

Paragraph 7: Added on 15 July 2005 by the report entitled "The 2005 Update to the Model Tax Convention", adopted by the OECD Council on 15 July 2005.

Paragraph 7 as it read before 21 September 1995 was deleted by the report entitled "The 1995 Update to the Model Tax Convention", adopted by the OECD Council on 21 September 1995. After 23 July 1992 and until 21 September 1995, paragraph 7 read as follows:

"7. *Greece* does not adhere to the interpretation given in paragraph 6 of the Commentary regarding the tax treatment of income derived from activities dealt with in Article 17."

Paragraph 7 of the 1977 Model Convention was replaced on 23 July 1992 when it was amended and renumbered as paragraph 8 (see history of paragraph 8) and a new paragraph 7 was added by the report entitled "The Revision of the Model Convention", adopted by the OECD Council on 23 July 1992. At the same time, the heading preceding paragraph 7 was moved with it and a new heading, "Observations on the Commentary", was added immediately before paragraph 7.

Paragraph 8: Added on 15 July 2014 by the Report entitled "The 2014 Update to the Model Tax Convention", adopted by the Council of the OECD on 15 July 2014.

Paragraph 8 as it read before 15 July 2005 was deleted by the report entitled "The 2005 Update to the Model Tax Convention", adopted by the OECD Council on 15 July 2005. After 29 April 2000 and until 15 July 2005, paragraph 8 read as follows:

"8. The *United States* reserves the right to exclude from paragraph 2 of the Article, and tax as a social security benefit under Article 18, social security benefits paid in respect of Government service."

Paragraph 8 was added on 29 April 2000 by the report entitled "The 2000 Update to the Model Tax Convention", adopted by the OECD Committee on Fiscal Affairs on 29 April 2000.

Paragraph 8 as it read after 23 July 1992 was deleted on 21 September 1995 by the report entitled "The 1995 Update to the Model Tax Convention", adopted by the OECD Council on 21 September 1995. After 23 July 1992 and until 21 September 1995, paragraph 8 read as follows:

> "8. *Japan* believes that a reference to Article 17 should be added to paragraph 3, so that government-employed artistes may be governed by Article 17 if their services are rendered in connection with a business."

Paragraph 8 as it read before 23 July 1992 corresponded to paragraph 7 of the 1977 Model Convention. On 23 July 1992 paragraph 8 of the 1977 Model Convention was renumbered as paragraph 9 (see history of paragraph 9) and paragraph 7 was amended by deleting the reference to the United States and renumbered as paragraph 8 by the report entitled "The Revision of the Model Convention", adopted by the OECD Council on 23 July 1992. At the same time, the heading preceding paragraph 7 was moved with it. In the 1977 Model Convention and until 23 July 1992, paragraph 7 read as follows:

> "7. *Japan* and the *United States* believe that a reference to Article 17 should be added to paragraph 3, so that government-employed artistes may be governed by Article 17 if their services are rendered in connection with a business."

Paragraph 7 was added when the 1977 Model Convention was adopted by the OECD Council on 11 April 1977. At the same time, the heading preceding paragraph 3 was moved immediately before paragraph 7.

Paragraph 9: Corresponds to paragraph 8 of the 1977 Model Convention as it read before 23 July 1992. On that date paragraph 8 was renumbered as paragraph 9 by the report entitled "The Revision of the Model Convention", adopted by the OECD Council on 23 July 1992.

Paragraph 8 was added when the 1977 Model Convention was adopted by the OECD Council on 11 April 1977.

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Paragraph 10: Deleted on 29 April 2000 by the report entitled "The 2000 Update to the Model Tax Convention", adopted by the OECD Committee on Fiscal Affairs on 29 April 2000. After 23 July 1992 and until 29 April 2000, paragraph 10 read as follows:

> "10. *Canada* is of the opinion that paragraph 1 should only apply in respect of services rendered in a State that is not the paying State and will propose an amendment to that effect while negotiating conventions."

Paragraph 10 was added on 23 July 1992 by the report entitled "The Revision of the Model Convention", adopted by the OECD Council on 23 July 1992.

Paragraph 11: Amended on 31 March 1994 by the report entitled "1994 Update to the Model Tax Convention", adopted by the OECD Council on 31 March 1994. After 23 July 1992 and until 31 March 1994, paragraph 11 read as follows:

> "11. *France* reserves the right to specify in its conventions that remuneration paid by a Contracting State or a political subdivision or 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 if the individual is a national of both Contracting States. Also, France reserves its position concerning subdivision *b)(ii)* of paragraph 1 in view of the difficulties raised by this provision."

Paragraph 11 was added on 23 July 1992 by the report entitled "The Revision of the Model Convention", adopted by the OECD Council on 23 July 1992.

Paragraph 12: Deleted on 15 July 2005 by the report entitled "The 2005 Update to the Model Tax Convention", adopted by the OECD Council on 15 July 2005. After 28 January 2003 and until 15 July 2005, paragraph 12 read as follows:

> "12. *Belgium*, *Canada* and *Norway* reserve the right to extend the application of Article 18 to pensions referred to in Article 19 in order to achieve uniformity of treatment."

Paragraph 11 was amended on 28 January 2003, by adding Belgium as a country making the reservation, by the report entitled "The 2002 Update to the Model Tax Convention" adopted by the OECD Council on 28 January 2003. After 31 March 1994 and until 28 January 2003, paragraph 12 read as follows:

> "12. *Canada* and *Norway* reserve the right to extend the application of Article 18 to pensions referred to in Article 19 in order to achieve uniformity of treatment."

Paragraph 12 was previously amended on 31 March 1994, by adding Canada as a country making the reservation, by the report entitled "1994 Update to the Model Tax Convention", adopted by the OECD Council on 31 March 1994. After 23 July 1992 and until 31 March 1994, paragraph 12 read as follows:

> "12. *Norway* reserves the right to extend the application of Article 18 to pensions referred to in Article 19 in order to achieve uniformity of treatment."

Paragraph 12 was added on 23 July 1992 by the report entitled "The Revision of the Model Convention", adopted by the OECD Council on 23 July 1992.

Paragraph 13: Amended on 29 April 2000, by replacing the words "industrial or commercial" with the word "business", by the report entitled "The 2000 Update to the Model Tax Convention", adopted by the OECD Committee on Fiscal Affairs on 29 April 2000 on the basis of the Annex of another report entitled "Issues Related to Article 14 of the OECD Model Tax Convention" (adopted by the OECD Committee on Fiscal Affairs on 27 January 2000). After 21 September 1995 and until 29 April 2000, paragraph 13 read as follows:

> "13. *France* considers that the scope of the application of Article 19 should cover:
>
> — remuneration paid by public legal entities of the State or a political subdivision or local authority thereof, because the identity of the payer is less significant than the public nature of the income;
>
> — public remuneration of artistes and sportsmen in conformity with the wording of the Model prior to 1995 (without applying the criterion of industrial or commercial activity, seldom relevant in these cases), as long as Article 17 does not contain a provision along the lines suggested in paragraph 14 of the Commentary on Article 17."

Paragraph 13 was added on 21 September 1995 by the report entitled "The 1995 Update to the Model Tax Convention", adopted by the OECD Council on 21 September 1995.