COMMENTARY ON ARTICLE 21
CONCERNING THE TAXATION OF OTHER INCOME

1. This Article provides a general rule relating to income not dealt with in the foregoing Articles of the Convention. The income concerned is not only income of a class not expressly dealt with but also income from sources not expressly mentioned. The scope of the Article is not confined to income arising in a Contracting State; it extends also to income from third States. Where, for instance, a person who would be a resident of two Contracting States under the provisions of paragraph 1 of Article 4 is deemed to be a resident of only one of these States pursuant to the provisions of paragraph 2 or 3 of that Article, this Article will prevent the other State from taxing the person on income arising in third states even if the person is resident of this other State for domestic law purposes (see also paragraph 8.2 of the Commentary on Article 4 as regards the effect of paragraphs 2 and 3 of Article 4 for purposes of the conventions concluded between this other State and third states).

(Amended on 17 July 2008; see HISTORY)

Paragraph 1

2. Under this paragraph the exclusive right to tax is given to the State of residence. In cases of conflict between two residences, Article 4 will also allocate the taxation right in respect of third State income.

(Replaced on 11 April 1977; see HISTORY)

3. The rule set out in the paragraph applies irrespective of whether the right to tax is in fact exercised by the State of residence, and thus, when the income arises in the other Contracting State, that State cannot impose tax even if the income is not taxed in the first-mentioned State. Likewise, when income arises in a third State and the recipient of this income is considered as a resident by both Contracting States under their domestic law, the application of Article 4 will result in the recipient being treated as a resident of one Contracting State only and being liable to comprehensive taxation ("full tax liability") in that State only. In this case, the other Contracting State may not impose tax on the income arising from the third State, even if the recipient is not taxed by the State of which he is considered a resident under Article 4. In order to avoid non-taxation, Contracting States may agree to limit the scope of the Article to income which is taxed in the Contracting State of which the recipient is a resident and may modify the provisions of the paragraph accordingly. In fact, this problem is merely a special aspect of the general

problem dealt with in paragraphs 34 and 35 of the Commentary on Article 23 A.

(Renumbered and amended on 11 April 1977; see HISTORY)

Paragraph 2

4. This paragraph provides for an exception from the provisions of paragraph 1 where the income is associated with the activity of a permanent establishment which a resident of a Contracting State has in the other Contracting State. The paragraph includes income from third States. In such a case, a right to tax is given to the Contracting State in which the permanent establishment is situated. Paragraph 2 does not apply to immovable property for which, according to paragraph 4 of Article 6, the State of situs has a primary right to tax (see paragraphs 3 and 4 of the Commentary on Article 6). Therefore, immovable property situated in a Contracting State and forming part of the business property of a permanent establishment of an enterprise of that State situated in the other Contracting State shall be taxable only in the first-mentioned State in which the property is situated and of which the recipient of the income is a resident. This is in consistency with the rules laid down in Articles 13 and 22 in respect of immovable property since paragraph 2 of those Articles applies only to movable property of a permanent establishment.

(Amended on 29 April 2000; see HISTORY)

5. The paragraph also covers the case where the beneficiary and the payer of the income are both residents of the same Contracting State, and the income is attributed to a permanent establishment which the beneficiary of the income has in the other Contracting State. In such a case a right to tax is given to the Contracting State in which the permanent establishment is situated. Where double taxation occurs, the State of residence should give relief under the provisions of Article 23 A or 23 B. However, a problem may arise as regards the taxation of dividends and interest in the State of residence as the State of source: the combination of Articles 7 and 23 A prevents that State from levying tax on that income, whereas if it were paid to a resident of the other State, the first State, being the State of source of the dividends or interest, could tax such dividends or interest at the rates provided for in paragraph 2 of Articles 10 and 11. Contracting States which find this position unacceptable may include in their conventions a provision according to which the State of residence would be entitled, as State of source of the dividends or interest, to levy a tax on such income at the rates provided for in paragraph 2 of Articles 10 and 11. The State where the permanent establishment is situated would give a credit for such tax on the lines of the provisions of paragraph 2 of Article 23 A or of paragraph 1 of Article 23 B; of course, this

credit should not be given in cases where the State in which the permanent establishment is situated does not tax the dividends or interest attributed to the permanent establishment, in accordance with its domestic laws.

(Amended on 29 April 2000; see HISTORY)

5.1 For the purposes of the paragraph, a right or property in respect of which income is paid will be effectively connected with a permanent establishment if the "economic" ownership of that right or property is allocated to that permanent establishment under the principles developed in the Committee's report entitled *Attribution of Profits to Permanent Establishments*[1] (see in particular paragraphs 72 to 97 of Part I of the report) for the purposes of the application of paragraph 2 of Article 7. In the context of that paragraph, the "economic" ownership of a right or property means the equivalent of ownership for income tax purposes by a separate enterprise, with the attendant benefits and burdens (*e.g.* the right to the income attributable to the ownership of the right or property, the right to any available depreciation and the potential exposure to gains or losses from the appreciation or depreciation of that right or property).

(Added on 22 July 2010; see HISTORY)

5.2 In the case of the permanent establishment of an enterprise carrying on insurance activities, the determination of whether a right or property is effectively connected with the permanent establishment shall be made by giving due regard to the guidance set forth in Part IV of the Committee's report with respect to whether the income on or gain from that right or property is taken into account in determining the permanent establishment's yield on the amount of investment assets attributed to it (see in particular paragraphs 165 to 170 of Part IV). That guidance being general in nature, tax authorities should consider applying a flexible and pragmatic approach which would take into account an enterprise's reasonable and consistent application of that guidance for purposes of identifying the specific assets that are effectively connected with the permanent establishment.

(Added on 22 July 2010; see HISTORY)

6. Some States which apply the exemption method (Article 23 A) may have reason to suspect that the treatment accorded in paragraph 2 may provide an inducement to an enterprise of a Contracting State to attach assets such as shares, bonds or patents, to a permanent establishment situated in the other Contracting State in order to obtain more favourable tax treatment there. To counteract such arrangements which they consider would represent abuse, some States might take the view that the transaction is artificial and, for this

1 *Attribution of Profits to Permanent Establishments*, OECD, Paris, 2010.

reason, would regard the assets as not effectively connected with the permanent establishment. Some other States may strengthen their position by adding in paragraph 2 a condition providing that the paragraph shall not apply to cases where the arrangements were primarily made for the purpose of taking advantage of this provision. Also, the requirement that a right or property be "effectively connected" with such a location requires more than merely recording the right or property in the books of the permanent establishment for accounting purposes.

(Amended on 22 July 2010; see HISTORY)

7. Some countries have encountered difficulties in dealing with income arising from certain nontraditional financial instruments when the parties to the instrument have a special relationship. These countries may wish to add the following paragraph to Article 21:

> 3. Where, by reason of a special relationship between the person referred to in paragraph 1 and some other person, or between both of them and some third person, the amount of the income referred to in paragraph 1 exceeds the amount (if any) which would have been agreed upon between them in the absence of such a relationship, the provisions of this Article shall apply only to the last mentioned amount. In such a case, the excess part of the income shall remain taxable according to the laws of each Contracting State, due regard being had to the other applicable provisions of this Convention.

The inclusion of this additional paragraph should carry no implication about the treatment of innovative financial transactions between independent persons or under other provisions of the Convention.

(Amended on 17 July 2008; see HISTORY)

8. This paragraph restricts the operation of the provisions concerning the taxation of income not dealt with in other Articles in the same way that paragraph 6 of Article 11 restricts the operation of the provisions concerning the taxation of interest. In general, the principles enunciated in paragraphs 32 to 34 of the Commentary on Article 11 apply to this paragraph as well.

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(Replaced on 21 September 1995; see HISTORY)

9. Although the restriction could apply to any income otherwise subject to Article 21, it is not envisaged that in practice it is likely to be applied to payments such as alimony payments or social security payments but rather that it is likely to be most relevant where certain nontraditional financial instruments are entered into in circumstances and on terms such that they

would not have been entered into in the absence of the special relationship (see paragraph 21.1 of the Commentary on Article 11).

(Replaced on 21 September 1995; see HISTORY)

10. The restriction of Article 21 differs from the restriction of Article 11 in two important respects. First, the paragraph permits, where the necessary circumstances exist, all of the payments under a nontraditional financial instrument to be regarded as excessive. Second, income that is removed from the operation of the Interest Article might still be subject to some other Article of the Convention, as explained in paragraphs 35 to 36 of the Commentary on Article 11. Income to which Article 21 would otherwise apply is by definition not subject to any other Article. Therefore, if the Article 21 restriction removes a portion of income from the operation of that Article, then Articles 6 through 20 of the Convention are not applicable to that income at all, and each Contracting State may tax it under its domestic law.

(Added on 21 September 1995; see HISTORY)

11. Other provisions of the Convention, however, will continue to be applicable to such income, such as Article 23 (Relief from Double Taxation), Article 25 (Mutual Agreement Procedure) and Article 26 (Exchange of Information).

(Added on 21 September 1995; see HISTORY)

12. *(Deleted on 17 July 2008; see HISTORY)*

Reservations on the Article

13. *Australia*, *Canada*, *Chile*, *Mexico*, *New Zealand*, *Portugal* and the *Slovak Republic* reserve their positions on this Article and would wish to maintain the right to tax income arising from sources in their own country.

(Amended on 22 July 2010; see HISTORY)

14. *Finland* and *Sweden* would wish to retain the right to tax certain annuities and similar payments to non-residents, where such payments are made on account of a pension insurance issued in their respective country.

(Amended on 23 October 1997; see HISTORY)

15. The *United Kingdom* wishes to maintain the right to tax income paid by its residents to non-residents in the form of income from a trust or from estates of deceased persons in the course of administration.

(Amended on 17 July 2008; see HISTORY)

16. *(Deleted on 15 July 2014; see HISTORY)*

17. The *United States* reserves the right to provide for exemption in both States of child support payments.

(Added 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 21 CONCERNING INCOME NOT EXPRESSLY MENTIONED IN THE CONVENTION"

Paragraph 1: Amended on 17 July 2008 by the report entitled "The 2008 Update to the Model Tax Convention", adopted by the OECD Council on 17 July 2008. In the 1977 Model Convention and until 17 July 2008, paragraph 1 read as follows:

> "1. This Article provides a general rule relating to income not dealt with in the foregoing Articles of the Convention. The income concerned is not only income of a class not expressly dealt with but also income from sources not expressly mentioned. The scope of the Article is not confined to income arising in a Contracting State; it extends also to income from third States."

Paragraph 1 was previously 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, paragraph 1 read as follows:

> "1. The aim of the Article, which appears in the same or similar form in most Conventions for the avoidance of double taxation, is to provide a general rule relating to items of income not expressly mentioned in the preceding Articles of the Convention. The State of which the recipient is a resident is given the exclusive right to tax such items of income."

Paragraph 2: 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 amended and renumbered as paragraph 3 (see history of paragraph 3) and a new paragraph 2 and preceding heading were added when the 1977 Model Convention was adopted.

Paragraph 3: Corresponds to paragraph 2 of the 1963 Draft Convention. On 11 April 1977 paragraph 3 of the 1963 Draft Convention was deleted and paragraph 2 of the 1963 Draft Convention was amended and renumbered as paragraph 3 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 2 read as follows:

> "2. As the Article is drafted, this rule applies irrespective of whether the right to tax is in fact exercised. If the income arises in the other Contracting State, that State cannot therefore impose tax even if the income is not taxed in the first-mentioned State. In order to avoid non-taxation, the Contracting States can agree to limit the scope of the Article to items of income which are subject to tax in the Contracting States of which the recipient is a resident and modify the Article in this way."

Paragraph 3 of the 1963 Draft Convention was deleted 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, paragraph 2 read as follows:

"3. *Canada* reserves its position on this Article. The Canadian authorities, in negotiating Conventions with other Member countries, would wish to maintain the right to tax income paid by residents of Canada to non-residents of Canada in the form of income from a trust or estate, alimony, and certain payments from a registered retirement savings plan, as well as certain lump sum payments to former employees in Canada in respect of their employment in Canada as described in Section 31 A of the Income Tax Act."

Paragraph 4: Amended on 29 April 2000, by deleting the words "or fixed base" and "or the fixed base", 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). In the 1977 Model Convention and until 29 April 2000, paragraph 4 read as follows:

"4. This paragraph provides for an exception from the provisions of paragraph 1 where the income is associated with the activity of a permanent establishment or fixed base which a resident of a Contracting State has in the other Contracting State. The paragraph includes income from third States. In such a case, a right to tax is given to the Contracting State in which the permanent establishment or the fixed base is situated. Paragraph 2 does not apply to immovable property for which, according to paragraph 4 of Article 6, the State of situs has a primary right to tax (see paragraphs 3 and 4 of the Commentary on Article 6). Therefore, immovable property situated in a Contracting State and forming part of the business property of a permanent establishment of an enterprise of that State situated in the other Contracting State shall be taxable only in the first-mentioned State in which the property is situated and of which the recipient of the income is a resident. This is in consistency with the rules laid down in Articles 13 and 22 in respect of immovable property since paragraph 2 of those Articles applies only to movable property of a permanent establishment."

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

Paragraph 5: Amended on 29 April 2000, by deleting the words "or a fixed base" and "or the fixed base", 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). In the 1977 Model Convention and until 29 April 2000, paragraph 5 read as follows:

"5. The paragraph also covers the case where the beneficiary and the payer of the income are both residents of the same Contracting State, and the income is attributed to a permanent establishment or a fixed base, which the beneficiary of the income has in the other Contracting State. In such a case a right to tax is given to the Contracting State in which the permanent establishment or the fixed base is situated. Where double taxation occurs, the State of residence should give relief under the provisions of Article 23 A or 23 B. However, a problem may arise as regards the taxation of dividends and interest in the State of residence as the State of source: the combination of Articles 7 and 23 A prevents that State from levying tax on that income, whereas if it were paid to a resident of the other State, the first State, being the State of source of the dividends or interest, could tax such dividends or interest at the rates provided for in paragraph 2 of Articles 10 and 11. Contracting States which find this position unacceptable may include in their

conventions a provision according to which the State of residence would be entitled, as State of source of the dividends or interest, to levy a tax on such income at the rates provided for in paragraph 2 of Articles 10 and 11. The State where the permanent establishment is situated would give a credit for such tax on the lines of the provisions of paragraph 2 of Article 23 A or of paragraph 1 of Article 23 B; of course, this credit should not be given in cases where the State in which the permanent establishment is situated does not tax the dividends or interest attributed to the permanent establishment, in accordance with its domestic laws."

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

Paragraph 5.1: Added on 22 July 2010 by the report entitled the "2010 Update to the Model Tax Convention" adopted by the OECD Council on 22 July 2010.

Paragraph 5.2: Added on 22 July 2010 by the report entitled the "2010 Update to the Model Tax Convention" adopted by the OECD Council on 22 July 2010.

Paragraph 6: Amended on 22 July 2010 by the report entitled "The 2010 Update to the Model Tax Convention", adopted by the OECD Council on 22 July 2010. In the 1977 Model Convention and until 22 July 2010, paragraph 6 read as follows:

"6. Some States which apply the exemption method (Article 23 A) may have reason to suspect that the treatment accorded in paragraph 2 may provide an inducement to an enterprise of a Contracting State to attach assets such as shares, bonds or patents, to a permanent establishment situated in the other Contracting State in order to obtain more favourable tax treatment there. To counteract such arrangements which they consider would represent abuse, some States might take the view that the transaction is artificial and, for this reason, would regard the assets as not effectively connected with the permanent establishment. Some other States may strengthen their position by adding in paragraph 2 a condition providing that the paragraph shall not apply to cases where the arrangements were primarily made for the purpose of taking advantage of this provision."

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

Paragraph 7: Amended on 17 July 2008 by the report entitled "The 2008 Update to the Model Tax Convention", adopted by the OECD Council on 17 July 2008. After 21 September 1995 and until 17 July 2008, paragraph 7 read as follows:

"7. Some countries have encountered difficulties in dealing with income arising from certain nontraditional financial instruments when the parties to the instrument have a special relationship. These countries may wish to add the following paragraph to Article 21:

"3. Where, by reason of a special relationship between the person referred to in paragraph 1 and some other person, or between both of them and some third person, the amount of the income referred to in paragraph 1 exceeds the amount (if any) which would have been agreed upon between them in the absence of such a relationship, the provisions of this Article shall apply only to the last mentioned amount. In such a case, the excess part of the income shall remain taxable according to the laws of each Contracting State, due regard being had to the other applicable provisions of this Convention.""

Paragraph 7 was replaced on 21 September 1995 when it was amended and renumbered as paragraph 13 (see history of paragraph 13) and a new paragraph 7 was added by the report entitled "The 1995 Update to the Model Tax Convention", adopted by the OECD Council on 21 September 1995. At the same time, the heading preceding paragraph 7 was moved with it.

Paragraph 8: Replaced on 21 September 1995 when paragraph 8 was renumbered as paragraph 14 (see history of paragraph 14) and a new paragraph 8 was added by the report entitled "The 1995 Update to the Model Tax Convention", adopted by the OECD Council on 21 September 1995.

Paragraph 9: Replaced on 21 September 1995 when paragraph 9 was renumbered as paragraph 15 (see history of paragraph 15) and a new paragraph 9 was added by the report entitled "The 1995 Update to the Model Tax Convention", adopted by the OECD Council on 21 September 1995.

Paragraph 10: 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.

Paragraph 11: 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.

Paragraph 12: Deleted on 17 July 2008 by the report entitled "The 2008 Update to the Model Tax Convention", adopted by the OECD Council on 17 July 2008. After 21 September 1995 and until 17 July 2008, paragraph 12 read as follows:

> "12. The Committee on Fiscal Affairs is actively studying the taxation of nontraditional financial instruments. Further changes to the Model or Commentaries may be necessary. The inclusion of proposed paragraph 3 carries no implication about the treatment of innovative financial transactions between independent persons or under other provisions of the Convention."

Paragraph 12 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.

Paragraph 13: Amended on 22 July 2010, by adding Chile to the list of countries making the reservation, by the report entitled "The 2010 Update to the Model Tax Convention", adopted by the OECD Council on 22 July 2010. After 28 January 2003 and until 22 July 2010, paragraph 13 read as follows:

> "13. *Australia*, *Canada*, *Mexico*, *New Zealand*, *Portugal* and the *Slovak Republic* reserve their positions on this Article and would wish to maintain the right to tax income arising from sources in their own country."

Paragraph 13 was previously amended on 28 January 2003, by adding the Slovak Republic to the list of countries 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 21 September 1995 and until 28 January 2003, paragraph 13 read as follows:

> "13. *Australia*, *Canada*, *Mexico*, *New Zealand*, *Portugal* and the *Slovak Republic* reserve their positions on this Article and would wish to maintain the right to tax income arising from sources in their own country."

Paragraph 13 as it read after 21 September 1995 corresponded to paragraph 7. On 21 September 1995 paragraph 7 was amended, by adding Mexico to the list of countries making the reservation, renumbered as paragraph 13 and the heading preceding paragraph 7 was moved with it 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. *Australia*, *Canada*, *New Zealand* and *Portugal* reserve their positions on this Article and would wish to maintain the right to tax income arising from sources in their own country."

Paragraph 7 was previously amended on 23 July 1992, by deleting Spain from the list of countries making the reservation, 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 7 read as follows:

> "7. *Australia*, *Canada*, *New Zealand*, *Portugal* and *Spain* reserve their positions on this Article and would wish to maintain the right to tax income arising from sources in their own country."

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 14: Amended on 23 October 1997 by the report entitled "The 1997 Update to the Model Tax Convention", adopted by the OECD Council on 23 October 1997. After 21 September 1995 and until 23 October 1997, paragraph 14 read as follows:

> "14. *Finland* and *Sweden*, when negotiating conventions with other member countries, would wish to retain the right to tax certain annuities and similar payments to non-residents, where such payments are made on account of a pension insurance issued in their respective country."

Paragraph 14 as it read after 21 September 1995 corresponded to paragraph 8. On 21 September 1995 paragraph 8 was renumbered as paragraph 14 by the report entitled "The 1995 Update to the Model Tax Convention", adopted by the OECD Council on 21 September 1995.

Paragraph 8 was amended on 23 July 1992, by adding Finland as a country making the reservation, 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 8 read as follows:

> "8. *Sweden*, when negotiating conventions with other member countries, would wish to retain the right to tax certain annuities and similar payments to non-residents of Sweden, where such payments are made on account of a pension insurance issued in Sweden."

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

Paragraph 15: Amended on 17 July 2008, by deleting Ireland from the list of countries making the reservation, by the report entitled "The 2008 Update to the Model Tax Convention", adopted by the OECD Council on 17 July 2008. After 23 October 1997 and until 17 July 2008, paragraph 15 read as follows:

> "15. *Ireland* and the *United Kingdom* wish to maintain the right to tax income paid by their residents to non-residents in the form of income from a trust or from estates of deceased persons in the course of administration."

Paragraph 15 was previously amended on 23 October 1997 by the report entitled "The 1997 Update to the Model Tax Convention", adopted by the OECD Council on 23 October 1997. After 21 September 1995 and until 23 October 1997, paragraph 15 read as follows:

> "15. In negotiating conventions with other member countries, *Ireland* and the *United Kingdom* wish to maintain the right to tax income paid by their residents to non-residents in the form of income from a trust or from estates of deceased persons in the course of administration."

Paragraph 15 as it read after 21 September 1995 corresponded to paragraph 9. On 21 September 1995 paragraph 9 was renumbered as paragraph 15 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.

Paragraph 9 was amended on 23 July 1992 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 9 read as follows:

> "9. In negotiating conventions with other member States, the *United Kingdom* also wishes to maintain the right to tax income paid by residents of the United Kingdom to non-residents of the United Kingdom in the form of income from a trust."

Paragraph 9 was added when the 1977 Model Convention was adopted by the OECD Council on 11 April 1977.

Paragraph 16: Deleted 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. After 23 October 1997 and until 15 July 2014, paragraph 16 read as follows:

> "16. In order to avoid non-taxation, *Belgium* reserves the right to allow the State in which income arises to tax that income where the State of residence, which would otherwise have the exclusive right to tax that income, does not effectively exercise that right."

Added on 23 October 1997 by the report entitled "The 1997 Update to the Model Tax Convention", adopted by the OECD Council on 23 October 1997.

Paragraph 17: 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.