

This comparison table shows selected Articles that imaginary negotiating partners have put forward as their opening texts. For illustrative purposes, State A has based its text on the OECD Model and State B has based its text on the UN Model.

The table below shows only three articles, or parts of articles, to illustrate how such a side by side text might be laid out.

Officials that negotiate from a document like this one can write their own comments in the third column – for example, noting questions and points they wish to raise in the talks.

SIDE-BY-SIDE FICTIONAL OPENING TEXTS IN PREPARATION FOR A NEGOTIATION		
CONVENTION BETWEEN STAE A AND FOR THE ELIMINATION OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL AND THE PREVENTION OF TAX EVASION AND AVOIDANCE	CONVENTION BETWEEN STATE B AND FOR THE ELIMINATION OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL AND THE PREVENTION OF TAX EVASION AND AVOIDANCE	COMMENTS
<p>Article 5 PERMANENT ESTABLISHMENT</p> <p>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.</p> <p>2. The term “permanent establishment” includes especially:</p> <ul style="list-style-type: none"> a) a place of management; b) a branch; c) an office; d) a factory; e) a workshop, and 	<p>Article 5 PERMANENT ESTABLISHMENT</p> <p>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.</p> <p>2. The term “permanent establishment” includes especially:</p> <ul style="list-style-type: none"> a) a place of management; b) a branch; c) an office; d) a factory; e) a workshop, and 	

<p>f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.</p> <p>3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than 12 months.</p>	<p>f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.</p> <p>3. The term “permanent establishment” also encompasses:</p> <p>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 120 days;</p> <p>b) The furnishing of services by an enterprise through employees or other personnel engaged by an enterprise for such purpose, but only if activities of that nature continue within a Contracting State for a period or periods aggregating more than 120 days within any twelve-month period commencing or ending in the fiscal year concerned;</p> <p>c) for an individual, the performing of services in a Contracting State by that individual, but only if the individual’s stay in that State, for the purpose of performing those services, is for a period or periods aggregating more than 120 days within any twelve month period commencing or ending in the fiscal year concerned.</p> <p>d) activities carried on by the enterprise in the other Contracting State, which consist of, or which are connected with, the exploration or exploitation of natural resources situated in that other State, but only where activities of that nature continue for a period or periods aggregating more than 30 days in any 12-month period commencing or ending in the fiscal year concerned.</p>	
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<p>4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:</p> <p>(etc)</p>	<p>4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:</p> <p>(etc)</p> <p>7. 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 6 applies.</p>	
<p>Article 12 ROYALTIES</p> <p>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.</p> <p>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</p>	<p>Article 12 ROYALTIES</p> <p>1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.</p> <p>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 10 per cent 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.</p> <p>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 (including rights related to literary,</p>	

<p>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.</p> <p>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.</p> <p>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</p>	<p>artistic or scientific work and 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.</p> <p>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 and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such cases the provisions of Article 7 shall apply.</p> <p>5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. However, where the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the State in which the permanent establishment is situated and not in the State of which the payer is a resident.</p> <p>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</p>	
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<p>each Contracting State, due regard being had to the other provisions of this Convention.</p>	<p>the laws of each Contracting State, due regard being had to the other provisions of this Convention.</p>	
	<p>Article 12A FEES FOR TECHNICAL SERVICES</p> <p>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.</p> <p>2. 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 10 percent of the gross amount of the fees.</p> <p>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:</p> <ul style="list-style-type: none"> (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. <p>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 and the fees for technical services are effectively connected with such</p>	

	<p>permanent establishment. In such case the provisions of Article 7 shall apply.</p> <p>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 in connection with which the obligation to pay the fees was incurred, and such fees are borne by the permanent establishment.</p> <p>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 or a third State through a permanent establishment situated in that other State or the third State and such fees are borne by that permanent establishment.</p> <p>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.</p>	
<p>Done in duplicate at this day of in the State A and languages, both texts being equally authentic.</p>	<p>Done in duplicate at this day of in the State B and languages, both texts being equally authentic.</p>	

FOR State A	FOR	For State B:	For	
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