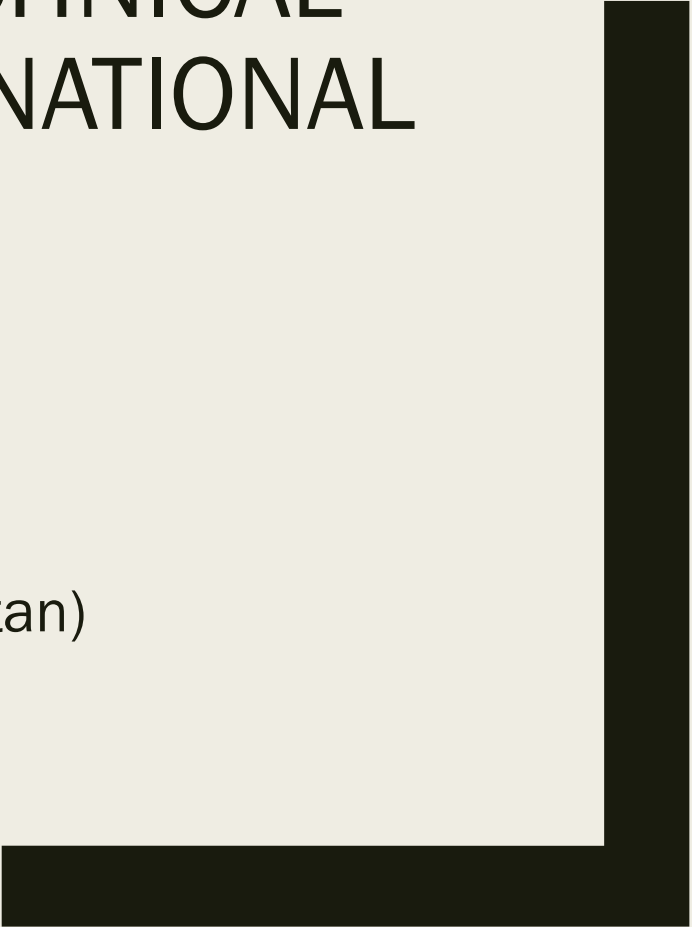




PTLAC-SOUTH CENTRE TECHNICAL BRIEFING ON TAXING INTERNATIONAL TRAFFIC

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(Draft Article 8 – Alternative B)

1. **Income** arising in a Contracting State from the **operation of ships or aircraft in international traffic** and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, income from the operation of ships or aircraft in international traffic arising in a Contracting State may also be tax in the Contracting State in which it arises and **according to the laws of that State**, but if the beneficial owner of such income is a resident of the other Contracting State, the tax so charged in the State in which the income arises shall not exceed:
 - (a) 50 percent of the tax otherwise imposed by the taxation law of that State on the **net profits** from such income; or
 - (b) --- percent [the percentage is to be established through bilateral negotiations] of the gross amount of the payments underlying such income,whichever is lower.

Draft Article 8 – Alternative B

3. For the purposes of this Article, “income from the operation of ships or aircraft in international traffic” means the total gross amount received less commission paid to sales agents, arising from the carriage of passengers, mail livestock or goods in international traffic. **The term also shall include items of income directly connected to, or ancillary to, the operation by that enterprise of ships or aircraft in international traffic, except where such items of income are dealt with separately in other Articles of this Convention (other than Article 7).**

4. For the purposes of this Article, income from the operation of ships or aircraft in international traffic shall be deemed arise in a Contracting State if such income:

- (a) is received for the carriage of passengers, livestock, mail or goods from a location in a Contracting State to a location outside that Contracting State; or
- (b) Is received by or on behalf of a resident of a Contracting State on account of the carriage of passengers, livestock, mail or goods from a location in a third state to the other Contracting State.

5. The provisions of paragraph 1 and 2 shall also apply to income from the participation in a pool, a joint business or an international operating agency engaged in the operation of ships.

UNTC – Pending Decisions

- (1) Whether Article 8 should continue to have an option providing for exclusive residence-based taxation as in Alternative A;
- (2) If the answer to Q1 is in the affirmative, whether the order of the alternatives in Article 8 should be reversed, presenting the option that allows source-state taxation first?
- (3) Whether the redrafted Article 8B is fine;
- (4) Whether Alternative B, Paragraph 2 should cover only shipping or both shipping and international air transport; &
- (5) To what extent ancillary income should be covered under Article 8, and some examples of what members think is covered and what is not?

Scope

- (1) Leasing of ships or aircrafts on charter;
- (2) Sale of tickets or booking of load on behalf of other enterprises;
- (3) Operation of a link passenger transport service;
- (4) Marketing, advertising or commercial publicity;
- (5) Transportation of goods by trucks to & from a port or airport to a depot;
- (6) Containerization and detention charges for late return of containers;
- (7) Operation of boats and vessels “engaged in fishing, dredging or hauling activities on the high seas;
- (8) Debt as a by-product of main or ancillary business operations;
- (9) Provision of technical expertise (engineers) and goods (spare-parts) to other enterprises; &
- (10) Maintenance services extended to other enterprises under a “pool agreement.”

Developing Countries' Support ...

- That, there should be only one Article 8 without any alternatives;
- That, Article 8 should cover both shipping and air transport; &
- That, scope of Article 8 should be restricted to incomes derived from operation of ships and aircrafts.

Thanks