C. RATIONALE AND SIGNIFICANCE OF THE UNITED NATIONS MODEL CONVENTION

The rationale of the preparation of bilateral tax conventions was cogently expressed by the Fiscal Committee of the League of Nations in the following terms: "The existence of model draft treaties...has proved of real use...in helping to solve many of the technical difficulties which arise in [the negotiation of tax treaties]. This procedure has the dual merit that, on the one hand, in so far as the model constitutes the basis of bilateral agreements, it creates automatically a uniformity of practice and legislation, while, on the other hand, inasmuch as it may be modified in any bilateral agreement reached, it is sufficiently elastic to be adapted to the different conditions obtaining in different countries or pairs of countries."1

Like all model conventions, the "United Nations Model Convention" is not enforceable. Its provisions are not binding and furthermore should not be construed as formal recommendations of the United Nations. The "United Nations Model Convention" is intended primarily to point the way towards feasible approaches to the resolution of the issues involved that both potential contracting parties are likely to find acceptable. Its aim is to facilitate the negotiation of tax treaties by eliminating the need for elaborate analysis and protracted discussion of every issue ab origine in the case of each treaty. Indeed, in preparing for negotiations a participating country may wish to review the provisions of bilateral double taxation treaties entered into by the other country in order to survey the latter's treaty practice and in particular the concessions it has granted in the past. In bilateral negotiations, room of course should be left to insert in the treaty provisions adapted to special situations.

If the negotiating parties decide to use in a treaty wording suggested in the United Nations Model Convention, it is to be presumed that they would also expect to derive assistance in the interpretation of that wording from the relevant commentary. The commentaries, which may prove to be very useful in the implementation of a treaty concluded by the negotiating parties and in the settlement of any dispute relating thereto, are not intended to be annexed to such a treaty, the text of which in itself would constitute the legally binding agreement.

Since the United Nations Model Convention reproduces many articles of the OECD Model Convention together with the commentaries thereon, the Group of Experts have taken a decision in 1999 that the observations and reservations would be noted, wherever necessary, at appropriate places.

With regard to the observations on the commentaries, the OECD Committee on Fiscal Affairs has noted that they "have sometimes been inserted at the request of some member

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1 League of Nations, Fiscal Committee: Report to the Council on the Fifth Session of the Committee, held in Geneva from June 12th 10 17th, 1935 (C.252.M.124.1935.II.A), Chapter II, Section B, para. 4.

countries who were unable to concur in the interpretation given in the commentary on the article concerned. These observations thus do not express any disagreement with the text of the Convention, but furnish a useful indication of the way in which those countries will apply the provisions of the article in question."2

The OECD Model now includes, in Volume II, observations and reservations spelling out the positions with respect to the Model of a number of non-member countries. The following countries' positions are included:

Argentina	Belarus	Brazil	China	Estonia	Israel	Latvia	Lithuania	Malaysia
Philippines	Romania	Russia	Slovakia	South Africa	Thailand	Ukraine	Viet Nam	

2 Organization for Economic Cooperation and Development, *Model Double Taxation Convention on Income and on Capital: Report of the Fiscal Committee* (Paris, 1977), para. 27.