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Reuven Avi-Yonah and Zachée Pouga Tinhaga

Summary

Any proposal for adoption of a unitary tax (UT) system ought to clear the first and most common hurdle of its compatibility, or lack of it, with the current norms in the international tax system – specifically, the current tax treaty network. This paper argues that unitary taxation is compatible with most of the current bilateral tax treaties and local countries' national tax laws.

The first argument levelled against UT is the revision of the United States (US) and Organisation for Economic Co-operation and Development (OECD) model tax treaties to specifically exclude application of UT through formulary apportionment. However, this argument carries little to no weight because most tax treaties currently outstanding, including those signed as recently as 2011 and even involving the US, do not adopt the changes and still contain Article 7 language allowing for a unitary approach.

Another argument for incompatibility is that separate accounting (SA) and arm's length standard (ALS) are so enshrined in tax treaties that they have become some sort of international law that is binding even when not explicitly stated. This argument, again, has no merit. On the one hand, it is well established that tax treaties, specifically model tax treaties, do not create a right to tax and cannot create a binding rule of law, even international law. On the other hand, and assuming the wide embodiment of SA into the treaties creates some sort of international binding norm, the same argument would hold for UT because the Article 7(4) language that authorises UT is still very present in most tax treaties currently outstanding.

We acknowledge that a complete transition from SA to UT would be a long-term process requiring major revisions across the international tax regime; however, it is our view that countries in general, and developing countries in particular, can legally apply UT because it is in compliance with both the tax treaties they have signed, if any, and their national laws.

Keywords: unitary taxation; tax; international tax; formulary apportionment; separate accounting; arm's length standard; developing countries; multinational companies.

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Acronyms

ALS	Arm's length standard
B and L	Bausch and Lomb
BEPS	Base erosion and profit shifting
CPM	Comparable profit method
HMRC	Her Majesty's Revenue and Customs
IRC	Internal Revenue Code
IRS	Inland Revenue Service
MC	Model Convention
MNE	Multinational enterprise
OECD	Organisation for Economic Co-operation and Development
PE	Permanent establishment
SA	Separate accounting
UN	United Nations
US	United States
UT	Unitary taxation

Introduction

Any proposal to adopt unitary taxation (UT) of multinationals has to contend with whether such taxation is compatible with existing international tax rules, and in particular with the bilateral tax treaty network. Indeed, some researchers have argued that the separate accounting (SA) method and the arm's length standard (ALS), introduced in the early twentieth century (League of Nations 1927, 1928, 1933),[1] are so embodied in the treaties that they form part of customary international law and are binding even in the absence of a treaty. We disagree because the unitary approach is just as widely embodied in most of the current international tax treaties and, where there are no treaties, national laws allow for a unitary approach to taxation. In this paper we will argue that UT can be compatible with most existing tax treaties, and that developing countries in particular can implement it in most cases with or without a tax treaty and in accordance with their domestic laws.

1 UT and the existing treaty network

Transfer pricing is currently governed by Article 9 of the double tax treaties, which assumes the SA method because it addresses the commercial or financial relations between associated enterprises.[2] Traditionally, the term permanent establishment (PE) was meant to include separate entities (subsidiaries). However, in 1933 the League of Nations introduced Article 5 (ancestor to the current Article 9 of the OECD Model) where separate enterprises were no longer considered PEs (League of Nations 1933: Art. 5). If UT were adopted, Article 9 would become irrelevant in those situations to which UT applies (i.e. where a unitary business is found to exist), because UT ignores the transactions between related parties and treats them instead as part of a single enterprise.

Instead, UT would be governed by Article 7. Under Article 5(7), '[t]he fact that a company that is a resident of a Contracting State controls or is controlled by a company that is a resident of the other Contracting State … shall not of itself constitute either company a permanent establishment of the other'. However, it is well established that a dependent agent can be a PE (see Article 5(5)), and whether an agent is dependent is based on whether the principal exercises legal and economic control over the agent.[3] 'An agent that is subject to detailed instructions regarding the conduct of its operations or comprehensive control by the enterprise is not legally independent' (US Treasury 2006).

In the case of a modern, integrated multinational enterprise (MNE) that operates as a unitary business, a strong argument can be made in most cases that the parent of the MNE exercises both legal and economic control over the operations of the subsidiaries, especially where the subsidiaries bear no real risk of loss and acquire goods and services exclusively or near

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1 For a brief account of the history see S. Picciotto (2013), especially pp. 10-15.

2 The quoted articles are identical in all the tax treaty models except when discussed in the text.

3 See, e.g., Roche Vitamins Europe Ltd v. Administracion General del Estado, Case No. STS/202/2012 (Spanish Supreme Court Jan. 12, 2012) (Swiss principal had PE in Spain through an affiliated Spanish company; activity of the subsidiary was directed organised and managed in a detailed manner by the principal); Salad Dressing, Fiscal Court Baden-Wurttemberg, 3 K 54/93, Internationales Steuerrecht 1997 (Swiss principal had a PE at the premises of an unrelated German contract manufacturer based on detailed instruction by principal); Milcal Media Limited, Court of Appeal, Stockholm, Case nos. 7453-54-02 (2005) (Cyprus principal had a PE through Swedish subsidiary because it was subject to detailed instructions and control); eFunds Corp. v. ADIT, Income Tax Appellate Tribunal, Delhi, 2010; Lucent Technologies v. DCIT, Income Tax Appellate Tribunal, 2008 (US parent company had a service PE in India); and the cases cited by Le Gall (2007).

exclusively from the parent or other related corporations. The existence of intranets in most MNEs has resulted in most important operational decisions being centralised. In that case, the subsidiaries should be regarded as dependent agents of the parent. Such a finding is in fact made with increasing frequency in both developed and developing countries (Le Gall 2007).

If the subsidiary is an agent of the parent, Art. 7(2) of the double tax treaties requires the attribution of the same profits to the subsidiary 'that it might be expected to make if it were a distinct and independent enterprise engaged in the same or similar activities under the same or similar conditions'. Arguably, the application of UT satisfies this arm's length condition because in the absence of precise comparables, which almost never exist, it is not possible to determine exactly what profits would have been attributable to the subsidiary under SA.

When the US adopted the comparable profit method (CPM) and profit split in the 1994 transfer pricing regulations, some countries objected that it was violating the double tax treaties because these methods did not rely on exact comparables to find the arm's length price. However, these objections eventually subsided, and OECD endorsed similar methods in its transfer pricing guidelines and more recently granted them equivalent status to the traditional methods. The US has always maintained that both CPM and profit split satisfy the arm's length standard despite the lack of precise comparables (and in the case of profit split, using no comparables at all to allocate any residual profits). Similarly, the US has maintained that the 'super-royalty rule' of Internal Revenue Code (IRC) Section 482 (which requires royalties to be 'commensurate with the income' from an intangible, and therefore subject to periodic adjustment) is consistent with the arm's length standard, even though no comparables can be found to show that such adjustments are ever made by unrelated parties.

Before the recent changes to the OECD Model Convention (MC), it was therefore quite plausible to argue that UT was compatible with the double tax treaties if the subsidiary were as a factual matter legally or economically dependent on the parent so as to constitute a PE. In addition, a country that wished to adopt UT could rely on the language of the OECD MC Article 7(4):

> Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be necessary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
> (OECD MC Article 7(4))

Since it can be argued that in the absence of comparables the result reached under UT is equivalent to what could be reached under SA, this language seems to permit the use of UT for dependent agent PEs.

However, OECD in 2010 adopted changes to Article 7 of the MC that would make this argument more difficult to sustain. Specifically, OECD adopted the 'authorised OECD approach' to the attribution of profits to a PE that treats a PE as equivalent to a subsidiary, and has suggested that the transfer pricing guidelines that explicitly reject UT should be applied to PEs. In addition, OECD has followed the US lead and deleted article 7(4) from its MC. However, not all OECD countries accepted these changes, which were also rejected by developing countries, and the United Nations (UN) Model Tax Treaty still contains Article 7(4).

In fact, the vast majority of existing actual treaties have not been revised to incorporate those changes. In particular, the Appendix shows that many developing country treaties contain Article 7(4), even when the treaties are with OECD members. The Appendix lists 174 such treaties by developing countries that contain this language, including recent treaties such as India-Lithuania (2011), India-Nepal (2011) and Korea-Panama (2010), and treaties with OECD members such as India-Sweden, India-UK, Mexico-UK and Sri Lanka-US. In all of those cases, or in the absence of a treaty, countries should be free to implement UT in accordance with the analysis set out above.

Customary international law

The argument of customary international law does not impede the application of a UT approach, either. The argument is based on the contention that because SA and the ALS are embodied in all the treaties they should be considered binding. But embodiment in the treaties is not enough to create a customary international law ban on UT, since Article 7(4) is embodied as well. Furthermore, it should be noted that model tax treaties do not, in any way or form, create a 'right to tax' (Vogel 1997: 26 onwards; see also Fiscal Committee 1958: 12). The key issue is the actual practice of states – what countries actually do, as domestic laws reign supreme in the area of taxation and many of them follow UT approaches in practice. In addition, countries should be free to follow the UN model which does not adopt the changes made by OECD, and which is also widely followed.

Finally, it can be argued that even OECD may be revising its approach. The authorised OECD approach may have marked the high point of OECD commitment to SA. With the beginning of the base erosion and profit shifting (BEPS) project, which is influenced by large developing countries like China and India, it is likely that OECD may be stepping back from its total commitment to SA. Specifically, the potential adoption under BEPS of country-by-country reporting (which is already required for extractive industries in the US) can be the basis for implementation of UT. This development is very important for developing counties, as many rely heavily on extractive industries. The requirements of country-by-country reporting, if implemented, will likely start with the extractive industries so as to draw from the US experience with the system, and will thereby allow a profound change in taxation of the major industry in the developing world: the extractive industry.

Does Article 7 preclude the application of UT to entire MNEs?

One important question raised by Durst in his contribution to this research programme is whether the requirement that profits be 'attributable' to a PE under Article 7 of the model tax treaties means that if UT is applied, it must be done on an activity-by-activity basis (Durst 2014). Otherwise profits would be attributed to the PE that have nothing to do with it, because the PE is not engaged in the activity that generates these profits. However, one would rather not make this assumption, because allowing an MNE to split its activities among different subsidiaries is notoriously hard to combat, and facilitates precisely the kind of profit shifting that developing countries in particular have a hard time policing.

In our opinion, the phrase 'attributable to a permanent establishment' does not preclude attribution of global profits of an MNE to a PE under whatever formula is adopted for UT purposes. The reason is that once a functional analysis is performed, and whatever can be attributed to the various functions by using either comparables or a proxy (such as a fixed percentage of costs as suggested by Durst in our previous work (Avi-Yonah et al. 2009)), the

remaining residual can be allocated in any way we wish, since it is attributable to the entire MNE.

Profit splits frequently result in a residual that cannot be allocated under the traditional functional analysis because it results from cost savings that inhere in the relationship of the group members to each other. The classic example is the US case involving Bausch and Lomb (B and L).[4] B and L developed an unpatented technology that enabled it to manufacture contact lenses at a cost of $2.50 per lens, when its competitors had costs of $7.50 per lens. B and L contributed the know-how to its Irish subsidiary. The question facing the US court was whether to accept B and L's view that the comparable uncontrolled price method should apply to determine the price charged by the Irish subsidiary to its parent based on a comparison with prices charged by independent lens manufacturers despite the difference in production costs. The Inland Revenue Service (IRS) argued that the residual profit from the know-how belonged to the US parent that developed it, but the court rejected that view because the residual profit inhered in the relationship between the parties. Had B and L Ireland been unrelated to its parent the know-how would have been disclosed, the competitors would have used it, and the residual profit would have disappeared.

The OECD's *Transfer Pricing Guidelines* (OECD 2010) do not say what should be done with residuals under the profit split method. The US regulations follow the White Paper[5] in assuming that any residual results from intangibles and allocating the residual to where the intangibles were developed. This is a view that favours US revenue interests because more intangibles are developed in the US than elsewhere, but not surprisingly it has not been accepted by other OECD members. Nor is it congruent with the facts, since residuals can result from other reasons such as cost savings from synergies or advantages of scale, and they usually inhere in the relationship among the group members and cannot be allocated to any one of them.

OECD's preferred method of applying the profit split method is to analyse the functions, assets and risks of each member of the affiliated group. However, in the context of residuals this method also proves to be illusory. A functional analysis can only be applied to those functions that can be assigned to the group members, such as production or distribution, but it does not help with residuals that result from the relationship among the group members. Assets can include intangibles, which are usually the most valuable assets of a modern MNE, but intangibles also get their value from the relationship among the group members, as illustrated by the B and L case. This makes it very difficult for them to be allocated either to where they were developed or where they are exploited. The Glaxo case[6] in which the IRS and Her Majesty's Revenue and Customs (HMRC) disagreed about whether the profit from selling Zantac, a drug developed in the UK, into the US market resulted from the intangibles embodied in the drug itself or those used in Glaxo's marketing resulted in massive double taxation.

Risk is the trickiest concept of all. Recent case studies by the US Joint Committee on Taxation reveal a model in which the entrepreneurial risk for a product is assigned to an affiliate in a low tax jurisdiction and the manufacturing and distribution of the product in high tax jurisdictions are done on a contract manufacturing and commissionaire basis (Joint Committee on Taxation 2010). But it is not clear what the allocation of entrepreneurial risk means among related parties. If a product fails because of technological change or defects in manufacturing or environmental

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4 See Bausch & Lomb Inc. v. C.I.R., 933 F.2d 1084 (1991).

5 IRS Notice 88-123, 1988-2 C.B. 458 (a US Treasury study of transfer pricing methodology that resulted in the development of the comparable profits method and profit split).

6 GlaxoSmithKlineHoldings (Americas) Inc. and Subsidiaries v. Commissioner, No. 5750-04 (T.C. Apr. 2, 2004).

hazards the risk is effectively borne by the entire MNE, or more accurately by its management who risk being fired and by its shareholders who see the stock price plummet.

Under UT, these issues can be solved by using the formula to allocate the residual by the profit split method. The specific formula used can be negotiated, and is the topic of Durst's contribution to this programme (Durst 2014). But in our opinion it is clear that whatever formula is decided upon should be applied under UT to the entire profit of the integrated MNE and not divided into separate activities, and that this would be perfectly congruent with Article 7.

2 UT and developing countries

What can a developing country do to implement UT? In the absence of a treaty or in the event the treaty contains Article 7(4) language, the biggest obstacle to UT implementation may be access to information.

The recent redraft of the *UN Transfer Pricing Manual* recommends that among the documentation which a tax administration should request for a transfer pricing audit should be the 'Group global consolidated basis profit and loss statement and ratio of taxpayer's sales towards group global sales for five years' (UN 2013: para. 8.6.9.12). This provides a good basis for application of UT. The development of a global template for country-by-country reports by MNEs, mandated by the G20 and being developed as part of OECD's BEPS project, would also facilitate such an approach. The rejection of UT in the *OECD Transfer Pricing Guidelines* is based on its definition of formulary apportionment as 'applying a formula fixed in advance'. This leaves considerable scope for adoption of UT approaches with ad hoc formulas, which are not based on a fixed formula.

Specifically, as discussed in Michael Durst's work, allocation according to operating expenses would be clearer and easier to administer, and most importantly would fit within the current rules of international tax (Durst 2014). We have argued that in the context of the profit split method, the residual profit cannot be allocated on the basis of comparables and therefore can be allocated based on operating expenses without deviating from the ALS. This would entail first assigning to each country an estimated market return on the tax deductible expenses incurred by the multinational group in that country.

Developing countries should therefore be encouraged to draft their transfer pricing laws to include powers to adjust the accounts of any foreign-owned local company or branch, if the Revenue Authority considers that its accounts do not fairly reflect the profits earned locally, to bring the taxable profits into line with those which such a business would be expected to earn, having regard to (a) similar businesses either in that country or elsewhere, and/or (b) the relationship of the local business to the worldwide activities of the corporate group of which it is a part. This would involve analysis and comparison of provisions in the tax laws of appropriate countries. A good model would be Section 482 of the US IRC, which predates the ALS and is very open-ended.[7]

[7] 'In any case of two or more organizations, trades, or businesses (whether or not incorporated, whether or not organized in the United States, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the Secretary may distribute, apportion, or allocate gross income, deductions, credits, or allowances between or among such organizations, trades, or businesses, if he determines that such distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of such organizations, trades, or businesses.' (IRC 482).

3 Conclusion

The transition from SA to UT is likely to be a long process, and it may ultimately require renegotiating the treaties or even drafting a multilateral treaty like the EU's Common Consolidated Corporate Tax Base. However, a good beginning can be made now by exploring how developing countries can adopt UT principles within the context of the existing treaty network. This paper has endeavored to show that such approaches are quite feasible because most developing countries are not bound by the authorised OECD approach to Article 7, and because even OECD may be reconsidering its approach in the context of the BEPS project.

Appendix Current tax treaties with Article 7-4 language (data compiled from the IBFD, June 2012, <http://www.ibfd.org/IBFD-Products/Tax-Treaties-Database>)

CONTRACTING STATES	DATE	ADOPTED VERSION OF ARTICLE 7: 7-4 LANGUAGE	TENTATIVE CONCLUSION
INDIA &			
Japan	March 7, 1989	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
New Zealand	Oct. 17, 1986	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Singapore	Jan. 24, 1994	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Israel	Jan. 26, 1996	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Kuwait	June 15, 2006	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Lithuania	July 26, 2011	Art. 31 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Luxemburg	June 2, 2008	Art. 32 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Mexico	Sept. 10, 2007	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Mozambique	Sept. 30, 2010	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Myanmar	April 2, 2008	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Namibia	Feb. 15, 1997	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.

Nepal	Nov. 27, 2011	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Norway	Dec. 31, 1986	Art. 31 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Oman	April 2, 1997	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Philippines	Feb. 12, 1990	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Taiwan	July 12, 2011	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Serbia & Montenegro	Feb. 8, 2006	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Sri Lanka	Jan. 27, 1982	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Sweden	June 7, 1988	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Syria	June 18, 2008	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Tajikistan	Nov. 20, 2008	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Tanzania	May 27, 2011	Art. 31 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Thailand	Mar. 22, 1985	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
United Kingdom	Jan. 25, 1993	Art. 30 'nothing in paragraphs (1) and (2) of this Article shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be necessary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.

Ukraine	April 7, 1999	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Vietnam	Sept. 7, 1994	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
INDONESIA &			
Netherlands	Mar. 5, 1973	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Switzerland	Aug. 29, 1988	Art. 25 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Iran	April 30, 2004	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Japan	Mar. 3, 1982	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Kuwait	April 23, 1997	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Mauritius	Dec. 10, 1996	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Mexico	Sept. 6, 2002	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Korea	July 11, 2002	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
New Zealand	Mar. 25, 1987	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Philippines	June 18, 1981	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Poland	Oct. 6, 1992	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.

Portugal	July 9, 2003	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Slovakia	Oct. 12, 2000	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Syria	June 7, 1997	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Thailand	Mar. 25, 1981	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Tunisia	May 13, 1992	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
United Arab Emirates	Nov. 30, 1995	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
United Kingdom	April 5, 1993	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Ukraine	April 11, 1996	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Venezuela	Feb. 27, 1997	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Vietnam	Dec. 22, 1997	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Zimbabwe	May 30, 2001	Art, 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
KOREA &			
Syria	Feb. 21, 2000	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Mexico	Oct. 16, 1994	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.

Malta	Mar. 25, 1997	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Romania	Oct. 11, 1993	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Sri Lanka	May 28, 1984	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Switzerland	Feb. 12, 1980	Art. 26 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Tunisia	Sept. 27, 1988	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Ukraine	Sept. 29, 1999	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Russia	Sept. 26, 1997	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Myanmar	Feb. 22, 2002	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Oman	Sept. 23, 2005	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Panama	Oct. 20, 2010	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Slovakia	Aug. 27, 2001	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Slovenia	April 25, 2005	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Thailand	Nov. 16, 2006	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
United Arab Emirates	Sept. 23, 2003	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.

Venezuela	June 26, 2006	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
MEXICO &			
Netherlands	Sept. 27, 1993	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Singapore	Nov. 9, 1994	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Switzerland	Aug. 3, 1993	Art. 26 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
United Kingdom	June 2, 1994	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Norway	Mar. 23, 1995	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Poland	Nov. 30, 1998	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Portugal	Nov. 11, 1999	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Romania	July 20, 2000	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Russia	June 7, 2004	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Slovakia	May 13, 2006	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Spain	July 24, 1992	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Sweden	Sept. 21, 1992	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.

Ukraine	Jan. 23, 2012	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Venezuela	Feb. 6, 1997	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
MOROCCO &			
Pakistan	May 18, 2006	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Poland	Oct. 24, 1994	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Portugal	Sept. 29, 1997	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Romania	Sept. 11, 1981	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Singapore	Jan. 9, 2007	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Switzerland	Mar. 31, 1993	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Ukraine	July 13, 2007	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
NETHERLANDS &			
Norway	Nov. 13, 1989	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
New Zealand	Oct. 15, 1980	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
South Africa	Mar. 15, 1971	Art. 31 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.

Slovakia	Mar. 4, 1974	Art. 31 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Venezuela	May 29, 1991	Art. 31 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Oman	Oct. 5, 2009	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Pakistan	Mar. 24, 1982	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Panama	Oct. 6, 2010	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Poland	Sept. 20, 1979	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Portugal	Sept. 20, 1999	Art. 32 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Qatar	April 24, 2008	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Taiwan	Feb. 27, 2001	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Romania	Mar.5, 1998	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Saudi Arabia	Oct. 13, 2008	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Slovenia	June 30, 2004	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Sri Lanka	Nov. 17, 1982	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
United Arab Emirates	May 8, 2007	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.

Uganda	Aug. 31, 2004	Art. 31 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Venezuela	May 29, 1991	Art. 31 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Vietnam	Jan. 24, 1995	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Zambia	Dec. 19, 1977	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Zimbabwe	May 18, 1989	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
PHILIPPINES &			
Poland	Sept. 9, 1992	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Qatar	Dec. 14, 2008	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Romania	May 18, 1994	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Russia	April 26, 1995	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Singapore	Aug.1, 1997	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
ROMANIA &			
San Marino	May 23, 2007	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Switzerland	Oct. 25, 1993	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.

Qatar	Oct. 24, 1999	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Yugoslavia	May 16, 1996	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Russia	Sept. 27, 1993	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
RUSSIA &			
Switzerland	Nov. 15, 1995	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Yugoslavia	Oct. 12, 1995	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Slovenia	Nov. 29, 1995	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Sri Lanka	Mar. 2, 1999	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Syria	Sept. 17, 2000	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Thailand	Sept. 23, 1999	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Venezuela	Sept. 22, 2003	Art. 29 '… nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary…'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Vietnam	May 27, 1993	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
SAUDI ARABIA &			
Ukraine	Sept. 2, 2011	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.

Vietnam	April 10, 2010	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
SERBIA &			
Slovenia	June 11, 2003	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Spain	Mar. 9, 2009	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Turkey	Oct. 12, 2005	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
United Arab Emirates	Jan 13, 2013	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
SOUTH AFRICA &			
Switzerland	July 3, 1967	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Ukraine	Aug. 28, 2003	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
SRI LANKA &			
United Kingdom	June 21, 1979	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
United States	*Mar. 14, 1985* *As amended by 2002 protocol*	*Although this paragraph is not included in the US Model, this is not a substantive difference because the result provided by paragraph 4 is consistent with the rest of Article 7.* *The US view is that paragraphs 2 and 3 of Article 7 authorise the use of total profits methods independently of paragraph 4 of Article 7 of the OECD Model because total profits methods are acceptable methods for determining the arm's length profits of affiliated enterprises under Article 9. Accordingly, it is understood that, under paragraph 2 of the Convention, it is permissible to use methods other than separate accounting to estimate the arm's length profits of a permanent establishment where it is necessary to do so for practical reasons, such as when the affairs of the permanent establishment are so closely bound up with those of the head office that it would be impossible to disentangle them on any strict basis of accounts.*	*Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.*

Sweden	Feb. 23, 1983	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Switzerland	Jan. 11, 1983	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Thailand	Dec. 14, 1988	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
United Arab Emirates	Sept. 24, 2003	Art. 31 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
United Kingdom	June 21, 1979	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Vietnam	Oct. 26, 2005	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
SUDAN &			
United Arab Emirates	Mar. 18, 2001	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
SWEDEN &			
Tanzania	May 2, 1976	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Thailand	Oct. 19, 1988	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Trinidad and Tobago	Feb. 1984	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Tunisia	May 7, 1981	Art. 26 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Ukraine	Aug. 14, 1995	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.

Venezuela	Sept. 8, 1993	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Vietnam	Mar. 24, 1994	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Zambia	Mar. 18, 1974	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Zimbabwe	Mar. 10, 1989	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
TAIWAN &			
Thailand	July 9, 1999	Art. 26 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Vietnam	April 13, 1998	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
MONGOLIA &			
Poland	April 18, 1997	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Singapore	Oct. 10, 2002	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Switzerland	Sept. 20, 1999	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Thailand	Aug. 17, 2006	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
United Arab Emirates	Feb. 21, 2001	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
United Kingdom	April 23, 1996	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.

Ukraine	July 1, 2002	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Vietnam	May 9, 1996	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
MAURITIUS &			
Oman	Mar. 30, 1998	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Singapore	Aug. 19, 1995	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Sweden	April 23, 1992	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Zimbabwe	Mar. 6, 1992	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
MALAYSIA &			
United Kingdom	Dec. 10, 1996	Art. 30 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Mauritius	Aug. 23, 1992	Art. 26 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Syria	Feb. 26, 2007	Art. 29 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Turkmenistan	Nov. 19, 2008	Art. 27 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
United Arab Emirates	Nov. 28, 1995	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
Yugoslavia	April 24, 1990	Art. 28 'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	Implementation of a formulary apportionment method would be valid under the treaty thus not requiring treaty renegotiation.
KENYA &	Dec. 26, 2006	Art. 27	Implementation of a formulary apportionment method would be

Thailand		'nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary'	valid under the treaty thus not requiring treaty renegotiation.

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