



June 11, 2020

RE: E/C.18/2020/CRP.13 – Update of the UN Model Double Taxation Convention between Developed and Developing Countries – Application of Article 12 of the UN Model to Software Payments

Dear Committee Members,

USCIB¹ is writing to state our support for the recommendation in paragraph 18 of the above-referenced document. That is, there is much more work necessary on the issue of the potential application of Article 12 to software royalties. If the Subcommittee is going to consider expanding the current definition of royalties, then there is even more need for careful deliberation, including the viewpoints of all stakeholders, which cannot be accomplished during the term of this Committee of Tax Experts.

Software distribution and usage has changed dramatically in the last 10 years minimizing the need for, and the ability of, the vast majority of software users to make a copy to use the software. These changes should be carefully considered in deciding the appropriate tax treatment of payments for software.

The work of the Inclusive Framework on the taxation of the digitalizing economy is expected to have an impact on the current tax treatment of digital transactions and intangibles of all types and therefore should be completed and considered before making any decisions with respect to the definition of and the taxation of royalties.

USCIB members are willing to work with the members of the committee to provide information on current software business models to support achieving appropriate outcomes. Unfortunately, given the current constraints on the work of the Committee and Subcommittee,

¹ USCIB promotes open markets, competitiveness and innovation, sustainable development and corporate responsibility, supported by international engagement and prudent regulation. Its members include top U.S.-based global companies and professional services firms from every sector of our economy, with operations in every region of the world. With a unique global network encompassing leading international business organizations, USCIB provides business views to policy makers and regulatory authorities worldwide and works to facilitate international trade and investment.

this is currently impossible. We look forward to future opportunities to provide this helpful input to the Subcommittee.

Sincerely,

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