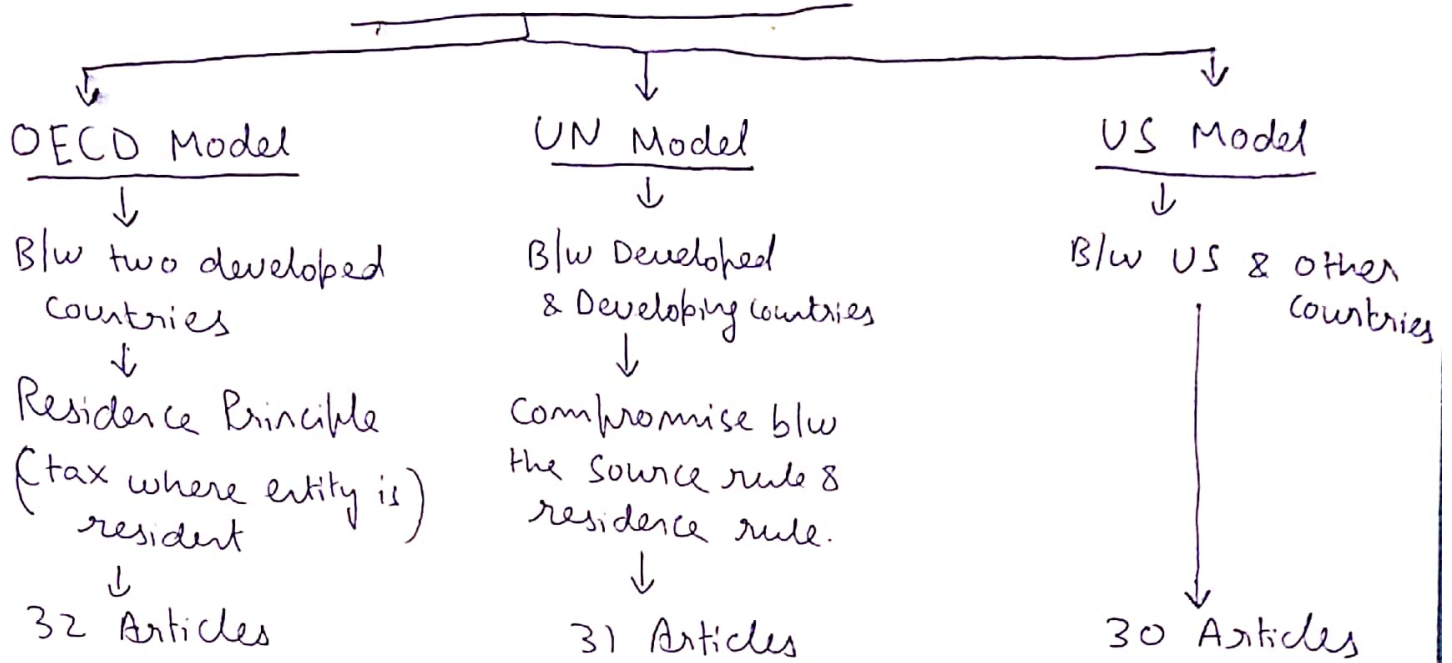


Model Tax Convention

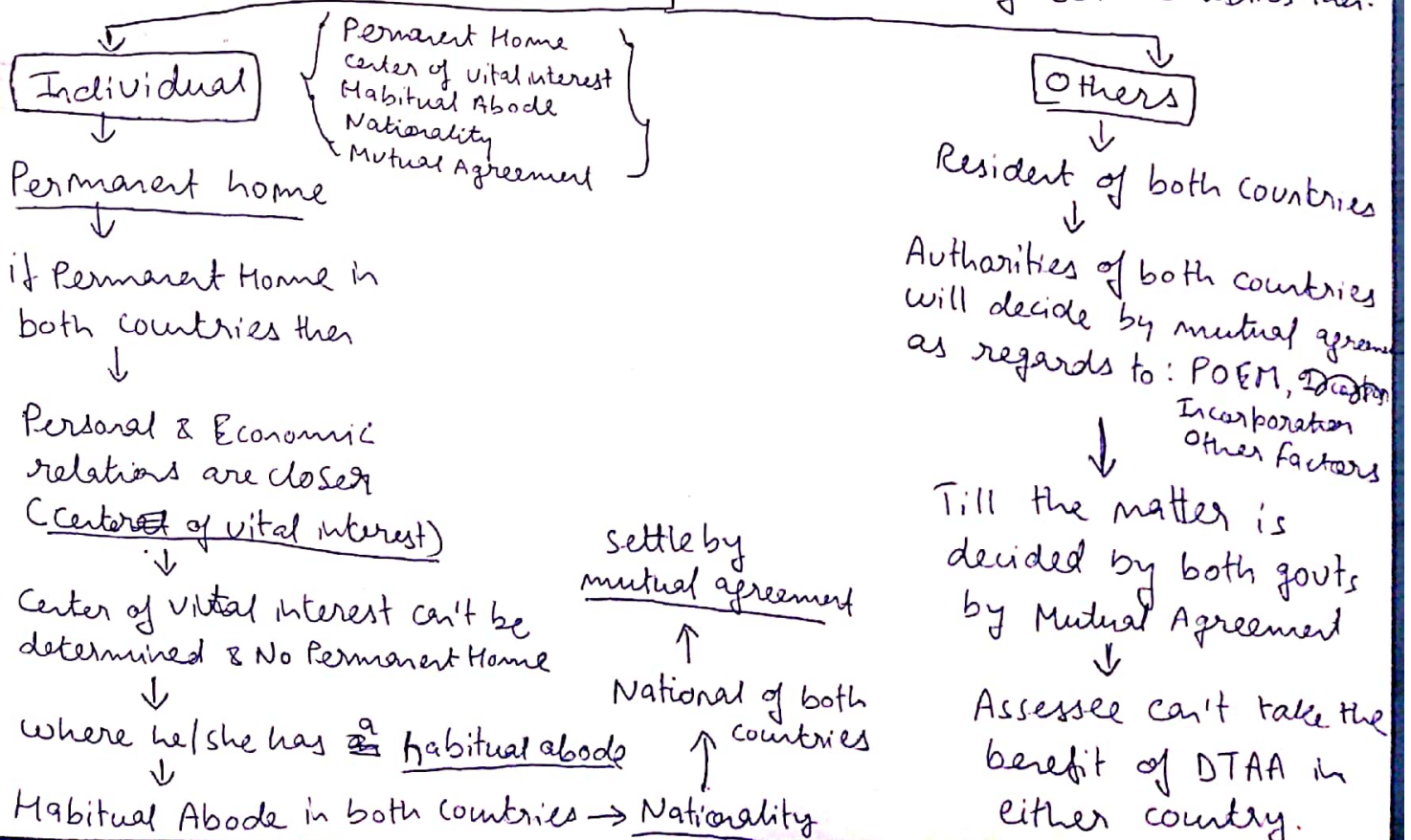


Article 1 → Person covered → Resident of one or both the countries to the agreement

Article 2 → Taxes covered → Income Tax & any ~~tax~~ similar tax in ~~future~~ future

★ Article 4 → Residence (Imp*) → As ~~the~~ her the Domestic Tax laws of both the countries

↓
if person becomes resident of both countries then:



★ Article 5 → Permanent Establishment (PE)

PE exists if:

- (a) There is an Enterprise
- (b) Carrying out Business
- (c) There is a Place of Business
- (d) Place of Business has effective power over the operations of the business
- (e) Place of Business is Fixed

★ PE includes the following:

- Place of management
- Branch
- Office
- Mine & oil well
- Workshop

As per OECD Model → Building site/construction project constitutes PE
if it lasts more than 12 months

UN Model → wider definition → lasts for only 6 months
↳ also includes assembly, installation projects & supervisory activities

Service PE — OECD is silent on the matter

↳ UN Model → Services (including consultancy services)
for aggregate 183 days/+ in a year

PE in the country in which services are given to.

Insurance Company — OECD is silent

↳ UN Model — Collects insurance premium through agent from other country → PE in the country of Premium

★ Article 7 → Business Profit

→ only taxed in Residence State

→ ought to tax on source rule → only if PE in that country.

★ Force of Attraction Rule (FOA Rule) → Only in UN Model

↓
When a foreign enterprise has PE in a country

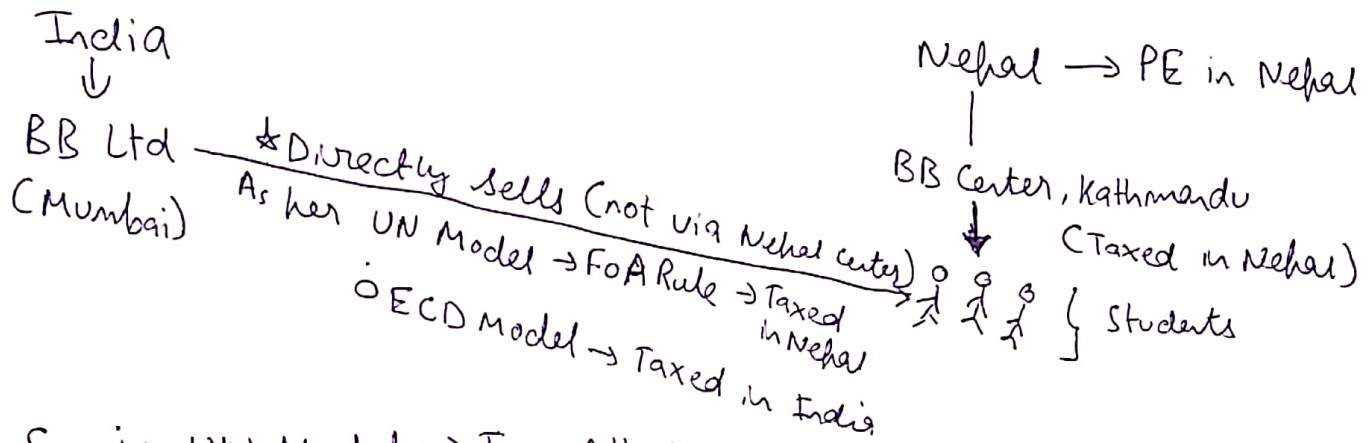
↓
Profits derived from source country

↓
whether or not through its PE

↓
Taxed in the PE Foreign Country

(Continued behind FTC) →

ROA Rule (Continued)



So, in UN Model → Tax Attributable on Sales from (PE + Directly earned)

★ Article 11 → Interest → Taxed by Residence Rule (earned)

Source country can also tax → Max 10% (OECD Model)
As per Bilateral negotiations (UN Model)

Penalty charges for late payment → Don't include

★ Article 12 → Royalties — OECD → Only ~~Source~~ ^{Residence} state can tax

UN Model → Residence / Source state both may tax

OECD Definition of Royalty excludes — rentals used for broadcasting
equipment rentals

★ Article 12A → Fees for Technical Service → Only in UN Model

★ Article 13 → Capital Gains → Computation as per domestic law
→ residence rule applies

★ Article 14 → Independent ~~Person~~ Personal Service (Professional Service)

→ Only in UN Model. Not in OECD Model
→ Normally resident rule, but ~~source~~ ^{receptant} country applies when:

- (a) Fixed Base in the country (or)
 - (b) Stay of more than 183 days in a year
- Tax in country where Professional Service is given.

Article 25 → Mutual Agreement Procedure / Article 26 → Exchange of Info