

# OVERVIEW

MODEL DOUBLE TAX AGREEMENTS

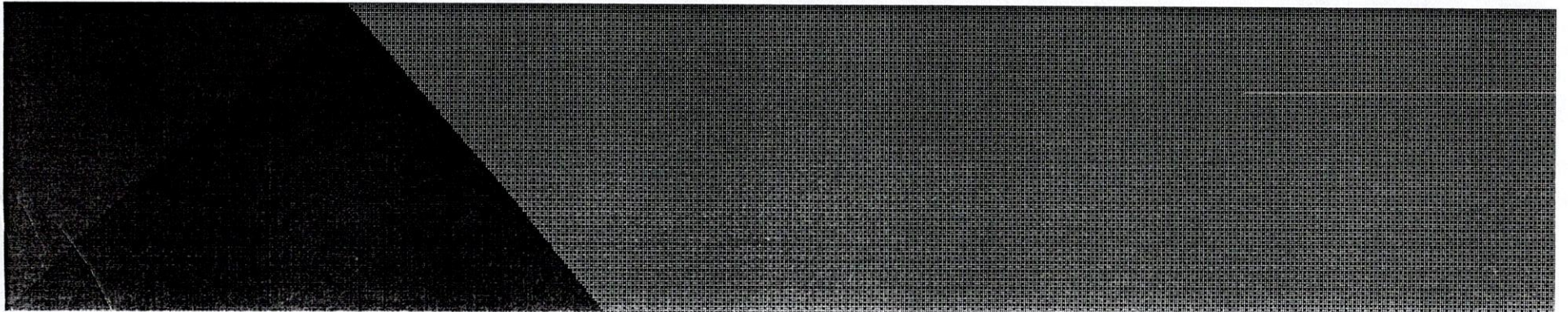
## **OBJECTIVES OF DTAs**

**Prevention of double tax**

**Allocation of taxing rights**

**Prevention of fiscal evasion**

**Exchange of information**



## **OBJECTIVES OF DTAs**

**These objectives need to balance:**

- The need for immediate tax revenue**
- The need to encourage economic activity**

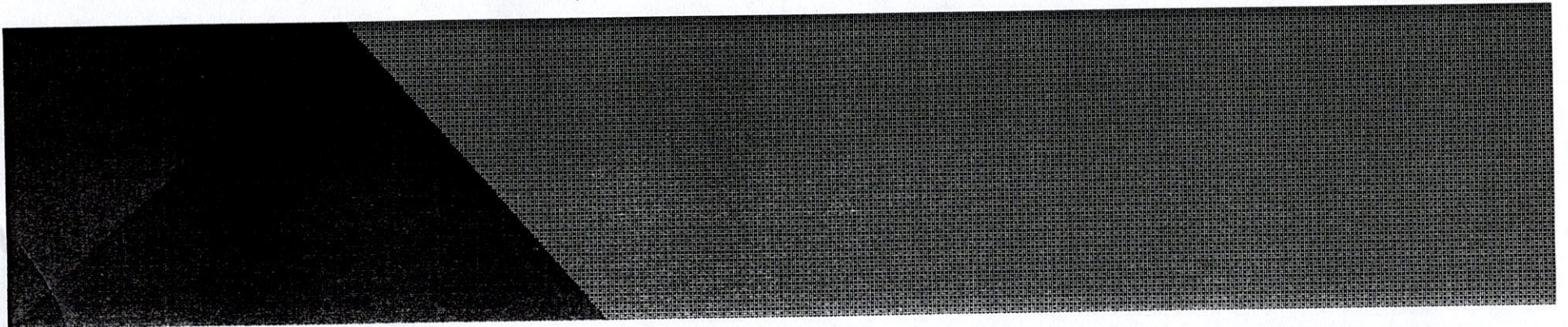
## **MAJOR MODEL DTAs**

**OECD**

**UN**

**Country models**

**eg. USA and Nigeria**



# MAJOR CLAUSES

MODEL DOUBLE TAX AGREEMENTS

# **PERMANENT ESTABLISHMENT**

**Building / Construction / Installation – 6 months**

**Services – 6 months**

**Exploration – 2 months**

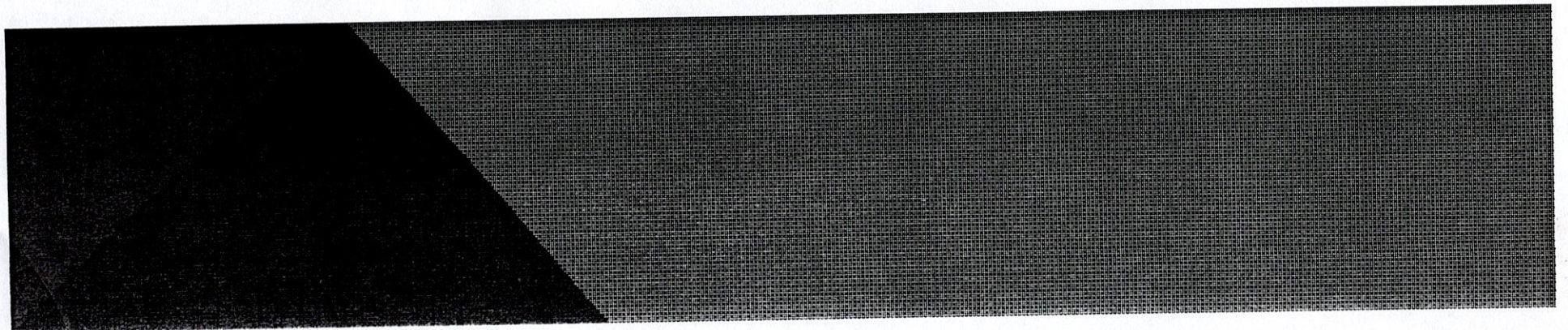
**Sales outlet**

**Delivery facilities**

**Authority to conclude contracts**

**Insurance**

**Independent agents / Independent Personal Services (IPS)**



# **BUSINESS PROFITS**

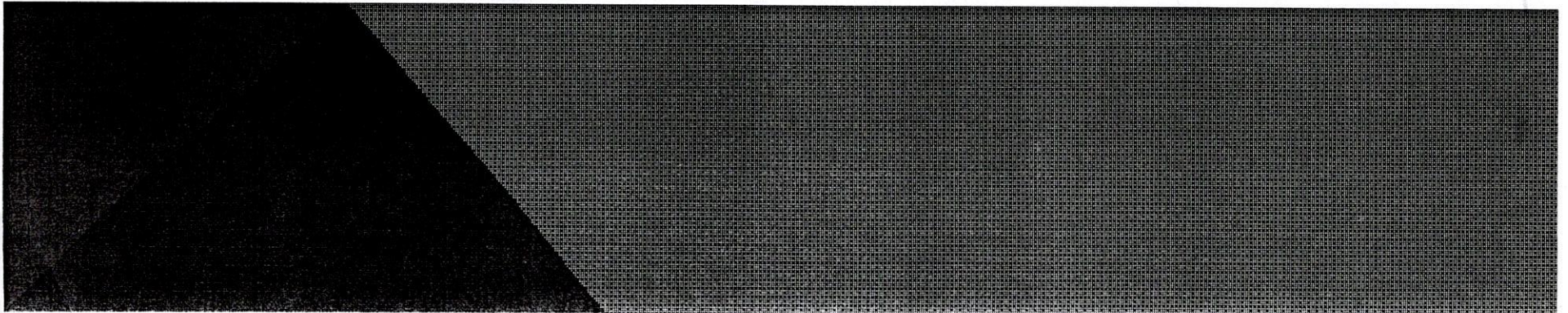
**Permanent Establishment (PE)**

**Extension beyond a PE**

- similar sales**
- similar activities**

**UN: No PE deduction for head office services!**

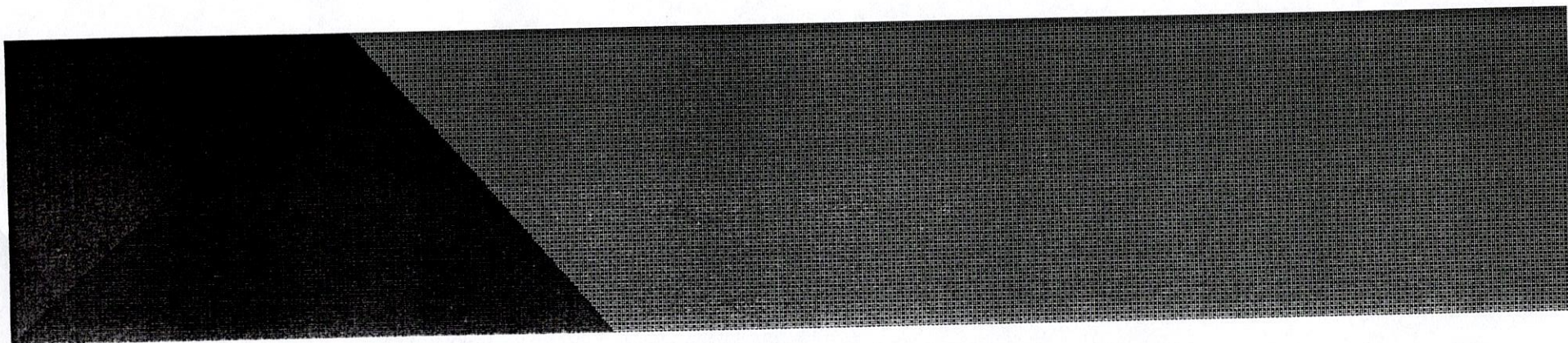
**Purchase of goods clause?**



# **ASSOCIATED ENTERPRISES**

**Arms length / Independent person test**

**UN – denial of reciprocal adjustment**

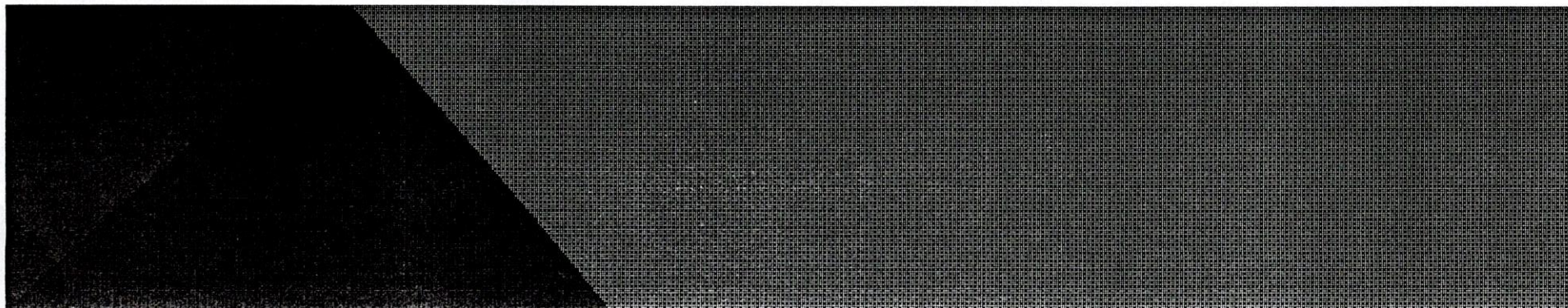




## **DIVIDENDS**

**Nigeria – No jouissance and similar rights**

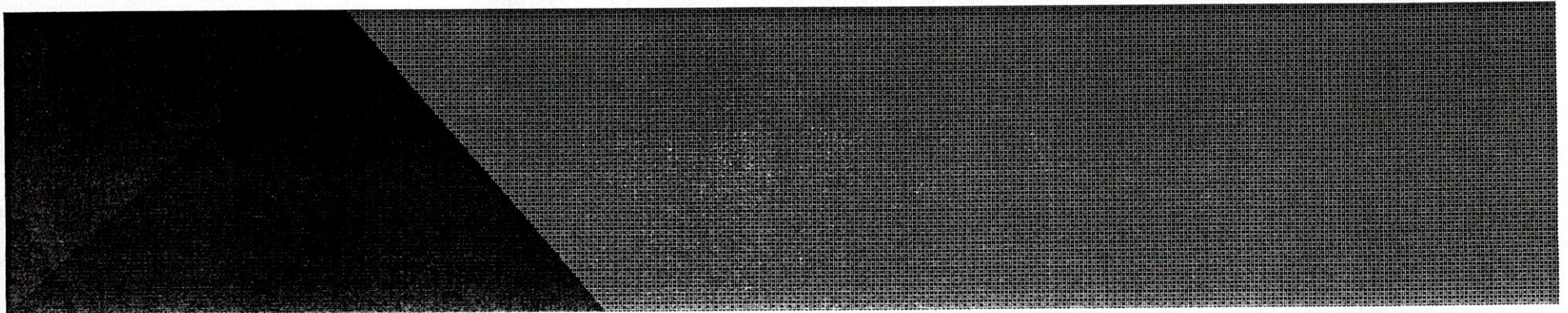
**Reference to fixed base and IPS unclear**



# **INTEREST**

**Nigeria – Government exemption**

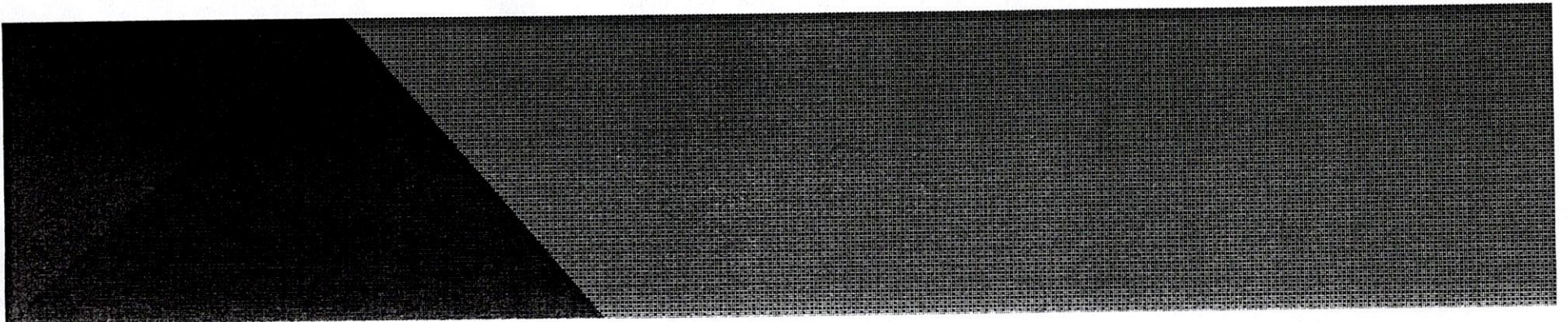
**Reference to fixed base and IPS unclear**



# **ROYALTIES**

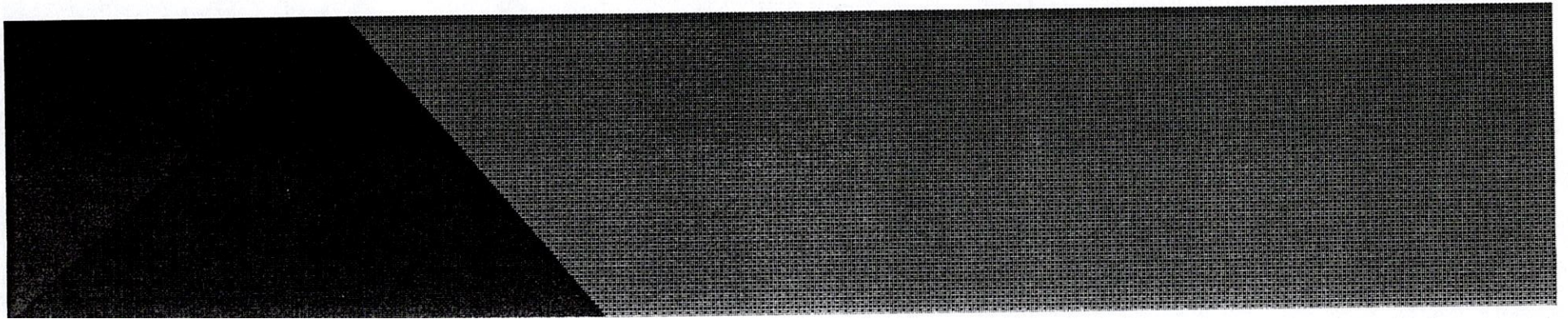
**Reference to fixed base and IPS unclear**

**Furthermore, source rule reversed for PE/IPS**



# **CAPITAL GAINS**

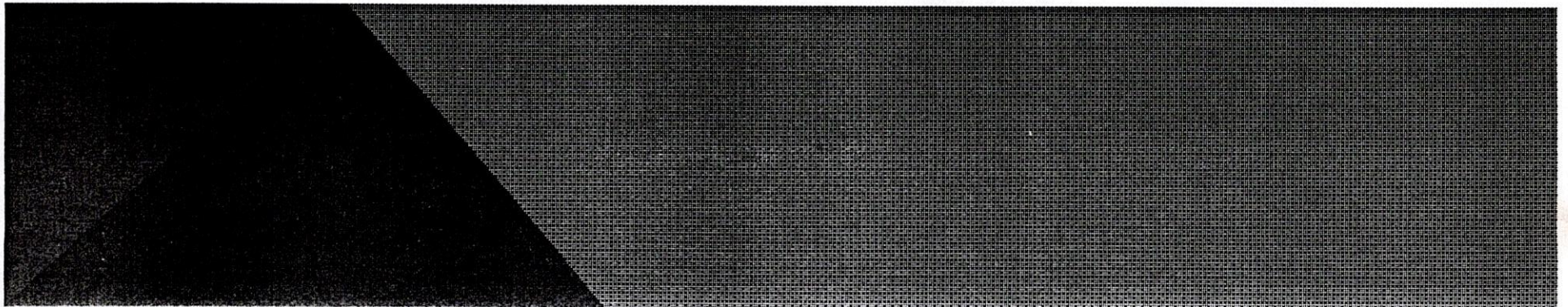
**Immovable property – 50% rule**



## **DIRECTOR / MANAGER FEES**

**OECD refers to Directors only**

**UN refers to top-level managers as well.**



# **PENSIONS**

**OECD gives sole tax rights to State of residence.**

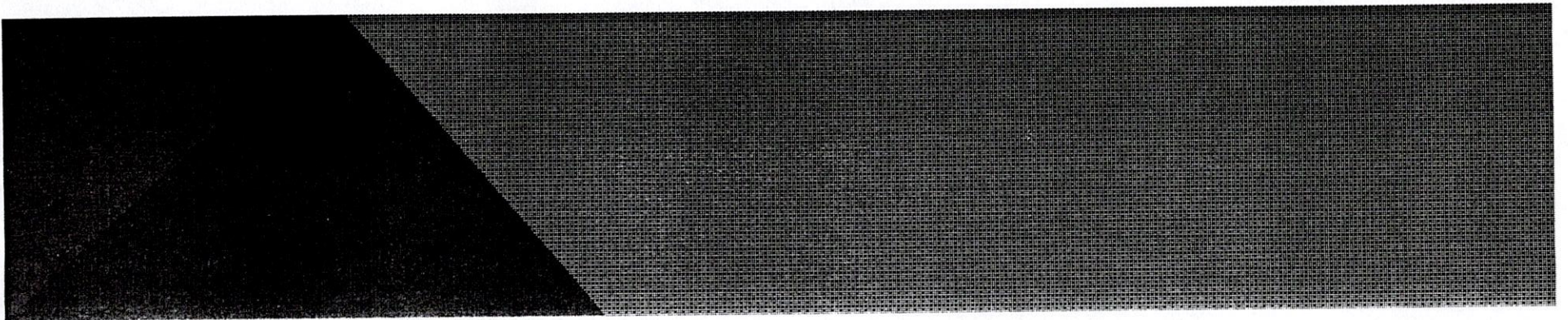
**UN suggests broadening:**

- A. If paid as Social Security, paying State should have sole taxing rights.**
- B. Also suggests sharing taxing rights, if pension paid by a resident or PE.**

# **GOVERNMENT SERVICE**

**No major distinction between models**

**Essentially remuneration and pensions are taxed solely in paying country, unless recipient is resident in the other State, which then gets sole taxing rights (for remuneration, if the services were rendered there).**



# **STUDENTS**

## **Nigerian Model includes Trainees**

**Maintenance / educational payments received by visiting students not taxable in State visited, if received from outside sources.**

**Nigerian model extends this with a general exemption for remuneration as long as the person remains a student / trainee / apprentice.**



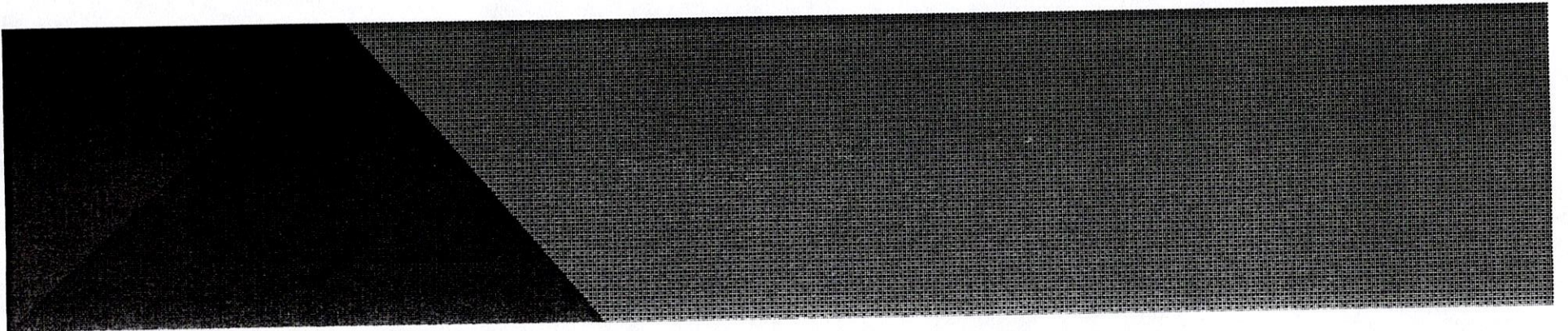


## **TEACHERS / RESEARCHERS**

**Nigerian Model clause is unique**

**Remuneration received by visiting teachers / researchers not taxable in State visited, for 2 years.**

**Does not apply if research is not in public interest but for business profit.**

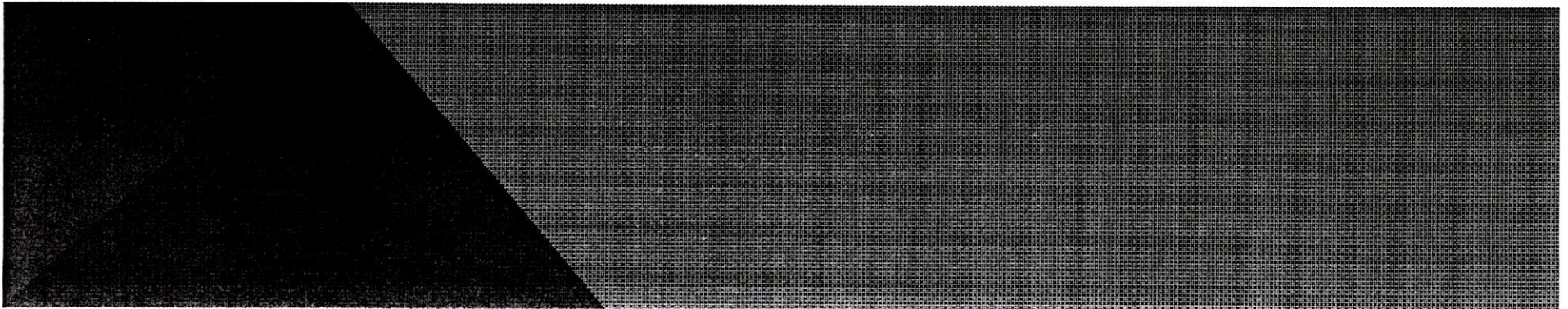


# **ELIMINATION OF DOUBLE TAX**

**OECD and UN Models provide for alternatives:**

- **Exemption; or**
- **Credit**

**Nigerian Model provides for Credit only**



# **EXCHANGE OF INFORMATION**

**Growing trend – special agreements**

**UN Model suggests exchange of information that “would be helpful” in preventing tax avoidance or evasion.**

