

Problems of multilingual interpretation of tax treaties

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Prof. dr. Pasquale Pistone

Email: ppistone@mclink.it

1. The basic features of tax treaties
2. Multilingual treaties and the Vienna Convention on the Law of Treaties
3. The methodology of multilingual interpretation and the relevance of the context
4. The application of such methods to solve the problems of multilingual interpretation of tax treaties

1. The basic features of tax treaties

- Mainly bilateral and restrict exercise of taxing jurisdiction
- Mostly patterned along Model Tax Conventions
- Tax Information Exchange Agreements (TIEAs)
- Follow 'pacta sunt servanda' rule
- Article 3.2: unless when the context otherwise requires, terms not defined by the treaty can be interpreted according to domestic law
- Interpretation of bilateral treaties in conformity with Model Conventions

2. Multilingual treaties and the Vienna Convention on the Law of Treaties

Article 33 Vienna Convention on the Law of Treaties

1. Each official version is equally authoritative, unless differently specified by the parties
 2. Terms used in each language are presumed to have the same meaning
 3. Differences in meaning must be solved by adopting the meaning that best reconciles the texts, having regard to object and purpose of the treaty
- ⇒ Adaptation required for tax treaties due to various factors, including the relevance of Model Conventions
- OECD authentic in two languages and example on fishing expeditions: *vraisemblablement pertinent/foreseeably relevant*

3. Methodology of multilingual interpretation and the context

Theories

- Shared meaning theory => adopt the common meaning
- Uniform meaning theory => adopt the prevailing meaning if in line with object and purpose
- Single meaning theory => adopt the meaning that best reflects object and purpose

Context

- Relation between results applying each theory
- Take into account procedure for normative production
- Same expression may have different meaning => legal pluralism

4. The application to tax treaties

- Art. 33 Vienna Convention: shared meaning prevails, if able to reflect object and purpose
- Example of fishing expeditions: application of shared meaning would raise the threshold for exchanging information
- Single meaning theory applied to draft in English is more appropriate, also taking into account the context of drafting the OECD clause