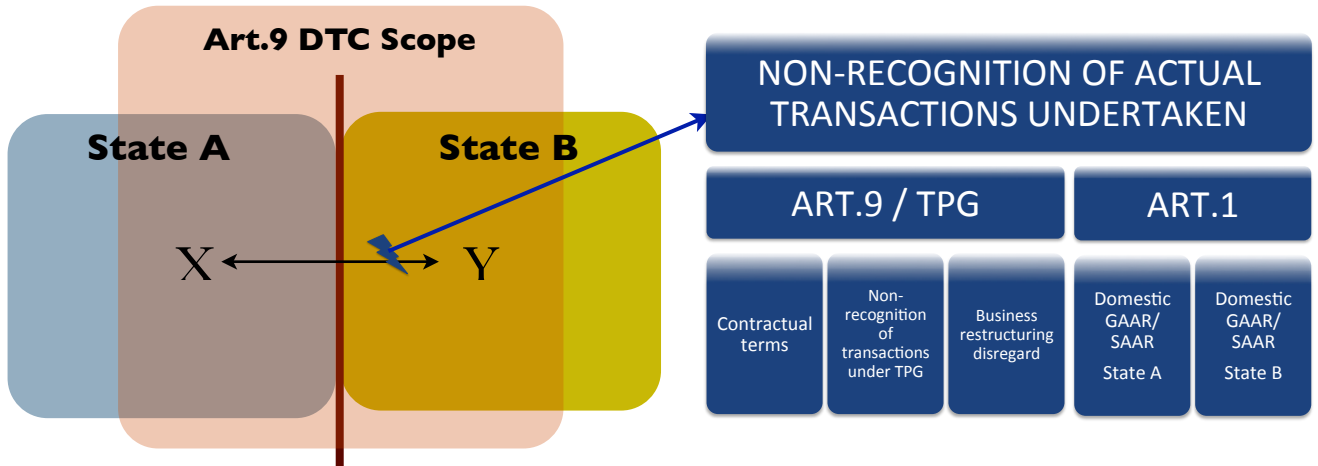


# NON RECOGNITION OF ACTUAL TRANSACTIONS UNDERTAKEN IN TRANSFER PRICING SCENARIOS




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This thesis is outlined in the research project DER2010-20000 financed by the Spanish Ministry of Economy and directed by Prof. Dr. Juan Zornoza Pérez

## Main issues

TREATY ISSUES	TP ISSUES	DOMESTIC LAW ISSUES
<ul style="list-style-type: none"> <li>• OECD Comm. Value</li> <li>• Art.9 scope and aim</li> <li>• Guiding principle (Par. 7-12 Comm. art.1)</li> </ul>	<ul style="list-style-type: none"> <li>• Arm's lenght scope and aim</li> <li>• TPG value</li> <li>• Contractual terms</li> <li>• Non-recogn. (1.64-1.69 TPG)</li> <li>• Business restructuring (chapter IX TPG)</li> </ul>	<ul style="list-style-type: none"> <li>• Restriction of domestic law by the DTC</li> <li>• TP domestic law scope and nature</li> <li>• Application of domestic anti avoidance rules in DTC context</li> </ul>

## Points of discussion

- OECD soft law texts are not binding
- Art.9 Arm's lenght shall be considered as a purely neutral valuation regime (correction of profits)
- Art.9 restricts application of domestic law
- OECD non-recognition system is based exclusively on Soft Law OECD statements
- OECD Guiding Principle applied to arm's lenght transactions shall be highly criticised