International Arbitration in Tax Matters: 
The Lead-up to the G20 and UN Meetings
Vienna, October 12-13, 2015

Day 1: Monday, October 12, 2015: Room AD.0.114
Chair Day 1: Jeffrey Owens

09:00 – 09.30 Registration
At WU (Vienna University of Economics and Business)
Institute for Austrian and International Tax Law
Welthandelsplatz 1 building AD, ground floor, room 114

09.30 – 09.45 Welcome Addresses:
Michael Lang, Head of the Institute for Austrian and International Tax Law, WU

09.45 – 10.15 Session I: Response to a tsunami of disputes – outcomes from the January 2015 conference
A summary of the outcomes from the first meeting of the group.
Speakers: Jeffrey Owens, Director WU Global Tax Policy Center at WU,
Laura Turcan (Research Associate, WU)

10.15 – 13.00 Session II: Current proposals on dispute resolution: an update from the OECD and the UN proposals to improve the MAP
It is widely anticipated that there will be an increasing number of tax disputes in the post-BEPS scenario. Drafting practical solutions for dispute settlements, therefore, is a priority on the international agenda. The issues are extensively discussed by the OECD and the UN. The panellists will present the latest proposals of their respective organization on how to improve the MAP.

The aim of this session is to explore technical solutions to improve existing dispute resolution procedures. Do the current proposals, including the OECD’s, offer new opportunities to improving the MAP? Have all relevant obstacles to efficient dispute settlement been sufficiently considered?

10.15 – 11.15 Update from the OECD on Deliverable on BEPS Action 14 Relating to the MAP
Speaker: Marlies de Ruiter (Head of the Tax Treaty, Transfer Pricing and Financial Transactions Division Centre for Tax Policy and Administration, OECD)

Open debate

11.15 – 11.30 Coffee Break

11.30 – 12.15 Update from the UN on Proposals for Improving the MAP

Open debate
12.15 – 13.00 A panel debate led by:
Andrew Dawson (Chair of Working Party Number 1 OECD)
Jean Pierre Lieb (Attorney at Law, EY)
John Avery Jones (Retired Judge of the Upper Tribunal)

13.00 – 14.00 Lunch break

14.00 – 17.30 Session III: Current proposals on dispute resolution: an update from the OECD and the UN – Arbitration
In order to achieve a more efficient dispute resolution and to cope with the projected increase in the number of disputes, improving the MAP can only constitute part of the solution. Many in the international community consider that some form of Mandatory Dispute Settlement could be part of the answer. Therefore, the OECD, the UN and the ICC proposals contain a number of suggested approaches. These proposals will be presented by representatives of the three organizations.

14.00 – 15.00 The OECD approach
Speaker: Marlies de Ruiter
Open Debate

15.00 – 15.45 The UN Perspective
Speaker: Michael Lennard
Open Debate

15.45 – 16.00 Coffee Break

16.00 – 16.30 Perspective of the ICC
Speaker: Cym Lowell (Chair of the ICC group on Dispute Resolution)

16.30 – 17.30 Panel debate led by:
Carolina del Campo* (General Reporter of the IFA panel)
Philip Baker (QC, Field Court Tax Chambers)
Stef van Weeghel (International Tax Law, University of Amsterdam)
Harm Pit (Policy Advisor Netherlands)

Social Event Heuriger Wolff Typical Viennese Dinner
19.00 – 22.00

*this speaker has not yet confirmed
Day 2: Tuesday, October 13, 2015: Room AD.0.114

Chair Day 2: Jeffrey Owens

09.00 – 10.30 **Session IV: Will the introduction of arbitration clauses into existing treaties give rise to new interpretation issues?**
The aim of this session is to critically assess changes to the arbitration clause proposed by the OECD and the UN and how they may affect the willingness of developed and developing countries to adopt an arbitration clause in their tax treaties. The session will especially focus on the proposed changes in the scope of the clause and how they may affect the functioning of the MAP procedure as a whole.

09.00 – 09.30 **Speakers:** Michael Lang
09.30 – 10.30 Open Debate

10.30 – 10.45 Coffee Break

10.45 – 12.00 **Session V: Alternative dispute resolution methods – mediation and conciliation**
Some countries still remain hesitant about arbitration in international tax law, even as a supplementary tool to the MAP. Having in mind the drawbacks of existing system, the aim of this session is to take stock of what alternative dispute measures would be acceptable to them.

**Speakers:** Pasquale Pistone (WU, IBFD) and Arno Gildemeister (Arbitrator & Mediator, Ecole de Droit, Sciences Po Paris)

12.00 – 13.00 **Session VI: MAP/Arbitration as a means of addressing conflicts at the factual level**
Many MAP cases focus on factual assessments. The most prominent example are transfer pricing disputes. Transfer Pricing is one of the most challenging and debated topics in the International tax environment. The amount of disputes between taxpayers and tax authorities on this topic has been increasing rapidly in recent years. Additionally, the frequent disagreement between different tax authorities on the arm's length nature of cross-border transactions has generated an urgent need to improve the MAP procedures. This session will focus on how specific issues that come up in TP cases can best be dealt with under the MAP.

**Speakers:** Krister Andersson (Chair of Business Europe Tax Committee), Raffaele Petrucci (WU), Jean Pierre Lieb

13.00 – 14.00 Lunch Break

14.00 – 15.00 **Session VII: Baseball vs. Conventional Arbitration**
In the tax area, the two main forms of arbitration are Baseball Arbitration/Short form Arbitration/Last Best Offer Arbitration under which the Arbitrators are only allowed to choose between the two proposals put forward by the two competent authorities. Generally, there is no reasoned written decision and the process is designed to be quick and keep costs down. Currently, this form of Arbitration is currently favored by the UN model. The second approach is Conventional arbitration, where each competent authority argues its case before the Arbitrators which then leads to a reasoned written decision. This is the approach favored in the OECD model, at least at present.
**Session VIII: Can we improve the technical platform for Dispute Resolution?**

In the context of constantly evolving technology, the question arises of whether some of these new technologies could be used to speed up the procedural issues of MAP and arbitration and to facilitate a quicker resolution of disputes.

For the least developed countries, resource constraints still pose the greatest challenge. They lack capacities, databases and funds. If Arbitration is the most pertinent solution to the growing number of tax disputes, developing countries cannot be left behind and tailored solutions for them must be worked out. Therefore, in order to move forward the debate on how best to help the least developed countries; this session will examine how the special needs of LDC’s can be met.

For instance, technical tools could be used for:
- Exchange of information between the parties to a dispute
- Cutting costs of arbitration through use of technology
- Fulfilling documentation and filing requirements, etc.

**Speakers:** Patricia Brown (University of Miami School of Law), Alexander Rust (WU)

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**Session IX: A Two-track approach to improving dispute resolution**

The last session will be focused on proposals for a mandatory dispute settlement mechanism which seeks to address some of the concerns of non-OECD countries by providing a more flexible approach and one which takes into account the resource constraints. This session will also look at the different ways to implement these proposals, including:

- MFN clauses
- Multilateral Convention on Administrative Assistance in Tax Matters
- Multilateral instruments

**Speakers:** Nancy Perks (Microsoft) and Raffaele Petruzzi

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**Speakers:** Jeffrey Owens, Laura Turcan, Michael Lennard and Philip Baker

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Open Debate